



## COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Steve Tate, Mayor Pro Tempore	Steve Tate, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Mark Grzan, Council Member	Mark Grzan, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member

**WEDNESDAY, MAY 18, 2005**

**AGENDA**

**JOINT MEETING**

**CITY COUNCIL SPECIAL AND REGULAR MEETING**

**and**

**REDEVELOPMENT AGENCY SPECIAL MEETING**

**6:00 P.M.**

***A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.***

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**Steve Tate, Mayor Pro Tempore/Vice-Chairman**

**CALL TO ORDER**

(Mayor Pro Tempore/Vice-Chairperson Tate)

**ROLL CALL ATTENDANCE**

(City Clerk/Agency Secretary Torrez)

**DECLARATION OF POSTING OF AGENDA**

**Per Government Code 54954.2**

(City Clerk/Agency Secretary Torrez)

**6:00 P.M.**

## ***City Council Action and Redevelopment Agency Action***

### **CLOSED SESSION:**

**1.**

#### **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Sections 54956.9(b) & (c)  
Number of Potential Cases: 3

**2.**

#### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:**

Authority: Pursuant to Government Code 54956.9(a)  
Case Name: General Lighting Service, Inc. v. Wells Construction Group, et al. [Consolidated  
Actions]  
Case Number: Santa Clara County Superior Court, Lead Case No. 1-04-CV-025561

### **OPPORTUNITY FOR PUBLIC COMMENT**

### **ADJOURN TO CLOSED SESSION**

### **RECONVENE**

### **CLOSED SESSION ANNOUNCEMENT**

**7:00 P.M.**

### **SILENT INVOCATION**

### **PLEDGE OF ALLEGIANCE**

### **RECOGNITIONS**

Outgoing Library Commissioners  
George Nale, Ruth Phebus & Kathleen Stanaway  
*Mayor Pro Tempore Tate*

Morgan Hill Cycling and Trail Awareness Award  
Bob Eltgroth  
*Mayor Pro Tempore Tate*

### **INTRODUCTIONS**

Police Department Staff  
Nathan Mazon, Lisa Pritsch, Keri Hulihan  
*Chief Cumming*

Public Works Staff  
Ann Beale, Rudy Zamarron  
*Deputy Director of Public Works Struve*

**PRESENTATIONS**

Silicon Valley Open Studios at the Morgan Hill Community & Cultural Center - May 21 & 22, 2005  
*Daryl Manning*

Environmental Poster Contest Winners  
*Program Administrator Eulo*

Chamber of Commerce  
*Dan Ehrler and Bob Martin*

**CITY COUNCIL REPORT**

Mayor Pro Tempore Tate

**CITY COUNCIL SUB-COMMITTEE REPORTS**

**CITY MANAGER'S REPORT**

**CITY ATTORNEY'S REPORT**

**OTHER REPORTS**

**PUBLIC COMMENT**

**NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.**

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME  
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND  
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE  
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY  
COUNCIL/REDEVELOPMENT AGENCY.**

## ***City Council Action***

**CONSENT CALENDAR:**

**ITEMS 1-12**

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

**Time Estimate**

**Consent Calendar: 1 - 10 Minutes**

**Page**

1. [\*\*THIRD QUARTER REPORT ON 2004-2005 WORKPLAN\*\*](#) .....7  
**Recommended Action(s):** Accept Report.

**Time Estimate**  
**Consent Calendar: 1 - 10 Minutes**

**Page**

2. **LEASE WITH SOLARA ENERGY** .....23  
**Recommended Action(s): Authorize** the City Manager to Amend the Lease Agreement, Subject to Review by the City Attorney, with Solara Energy to:
  1. **Allow** Solara to Install Roll-up Door Improvements and be Reimbursed by the City for the Costs;
  2. **Change** the Lease Start Date from April 1, 2005 to May 1, 2005; and
  3. **Make Revisions** as Needed to Clarify the Lease Terms.
3. **AWARD OF PROFESSIONAL SERVICES AGREEMENT FOR DESIGN OF TENNANT AVENUE WIDENING PROJECT** .....24  
**Recommended Action(s):**
  1. **Approve** Additional Scope of Work for Design Work for the Tennant Avenue Widening Project to MH Engineering for \$27,204; and
  2. **Authorize** the City Manager to Execute a Professional Service Agreement for an Amount Not to Exceed a Total of \$53,742 for Design Services for the Tennant Avenue Widening Project, Subject to Review and Approval as to Form by the City Attorney.
4. **APPROVAL OF AN AMENDMENT TO THE 2004 MEMORANDUM OF UNDERSTANDING (MOU) TO CONDUCT A REGIONAL ANNUAL INTEGRATED PEST MANAGEMENT PROGRAM** .....25  
**Recommended Action(s): Approve** Amendment No. 1, Establishing a Trust Fund for the Integrated Pest Management Program.
5. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9462, QUAIL CREEK PHASE II** .....26  
**Recommended Action(s):**
  1. **Adopt** the Resolution Accepting the Subdivision Improvements Included in Tract 9462, Commonly Known as Quail Creek Phase II; and
  2. **Direct** the City Clerk to File a Notice of Completion with the County Recorder's Office.
6. **FINAL UPDATE ON DEVELOPMENT PROCESSING SERVICES STUDY IMPLEMENTATION** .....30  
**Recommended Action(s): Accept** Final Report on the Implementation Status of Development Processing Services Study Recommendations.
7. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDSCS) 2005 QUARTERLY REPORT #1** .....40  
**Recommended Action(s): Accept and File** the RDSCS First Quarter Report for 2005.
8. **EXTEND TERMS OF OFFICE FOR THREE CURRENT PLANNING COMMISSIONERS, SCHEDULE INTERVIEW DATE, AND EXTEND TERMS OF OFFICE FOR THREE ARCHITECTURAL REVIEW BOARD (ARB) MEMBERS** .....41  
**Recommended Action(s):**
  1. **Extend** Terms of Office for Three Current Planning Commissioners Until Such Time that the City Council Concludes the Interview and Appointment Process;
  2. **Schedule** a Special City Council Meeting for June 8, 2005 to Conduct Planning Commission Interviews; and
  3. **Extend** Terms of Office for Three Current Architectural Review Board Members Until Such Time that the Vacancies are Filled.
9. **AMENDMENT TO MANAGEMENT RESOLUTION** .....42  
**Recommended Action(s): Adopt** Resolution Amending the Management, Professional and Confidential Employees Resolution No. 5872 to Change the Salary Range for the Position of Utility Systems Manager; to Change the Title of the Police Supports Services Supervisor to Police Support Services Manager and to Change to the Salary Range for that Position; and to Delete the Position of Human Resources Supervisor.

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
10.	<u><a href="#">ADOPT ORDINANCE NO. 1723, NEW SERIES</a></u> .....	45
	<b>Recommended Action(s):</b> <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1723, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 619, NEW SERIES AND ORDINANCE NO. 955, NEW SERIES, ESTABLISHING A LIST OF PERMITTED AND CONDITIONAL USES ON A 4.8 ACRE INDUSTRIAL PLANNED UNIT DEVELOPMENT ON THE WEST SIDE OF VINEYARD BOULEVARD, NORTH OF VINEYARD COURT. (APN 817-02-055 thru 062) (ZAA-89-16: Church-LaBrucherie).</b>	
11.	<u><a href="#">APPROVE MINUTES OF SPECIAL CITY COUNCIL COYOTE VALLEY SPECIFIC PLAN WORKSHOP OF APRIL 26, 2005</a></u> .....	51
12.	<u><a href="#">APPROVE MINUTES OF SPECIAL CITY COUNCIL MEETING OF MAY 4, 2005</a></u> .....	65

## *City Council and Redevelopment Agency Action*

### CONSENT CALENDAR:

#### ITEMS 13-14

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
13.	<u><a href="#">CITY MANAGER'S PROPOSED FISCAL YEAR 2005-2006 BUDGET AND CAPITAL IMPROVEMENT PROGRAM</a></u> .....	69
	<b>Recommended Action(s):</b>	
	1. <u>Receive</u> the City Manager's Proposed 2005-2006 Budget & Capital Improvement Program;	
	2. <u>Set</u> May 20, 2005 as a Budget Workshop, CIP Workshop, and Workplan Workshop;	
	3. <u>Set</u> June 15, 2005 as a Public Hearing on the Budget; and	
	4. <u>Set</u> June 22, 2005 for Adoption of the 2005-2006 Budget.	
14.	<u><a href="#">APPROVE MINUTES OF JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF MAY 4, 2005</a></u> .....	70

## City Council Action

### PUBLIC HEARINGS:

	<u>Time Estimate</u>		<u>Page</u>
15.	30 Minutes	<u><a href="#">ZONING AMENDMENT, ZAA-04-01/ DEVELOPMENT AGREEMENT, DA-04-08: TILTON-GLENROCK</a></u> .....	91
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u><b>Motion to Waive</b></u> the Reading in Full of Zoning Amendment Ordinance.	
		Action- <u><b>Motion to Introduce</b></u> Zoning Amendment Ordinance by Title Only. (Roll Call Vote)	
		Action- <u><b>Motion to Waive</b></u> the Reading in Full of Development Agreement Ordinance.	
		Action- <u><b>Motion to Introduce</b></u> Development Agreement Ordinance by Title Only. (Roll Call Vote)	

## City Council Action

### OTHER BUSINESS:

	<u>Time Estimate</u>		<u>Page</u>
16.	10 Minutes	<u><a href="#">SILICON VALLEY SOCCER COMPLEX PROPOSAL</a></u> .....	116
		<u><b>Recommended Action(s):</b></u>	
		1. <u><b>Authorize</b></u> Staff to Negotiate a Contract with the San Jose Soccer Complex Foundation, Subject to Review and Approval of the City Attorney, Committing the City of Morgan Hill to Pay up to \$974,000 in Development and Construction Costs as Certain Milestones are met; and	
		2. <u><b>Authorize</b></u> Payment of \$974,000 from the Capital Improvement Program (CIP) Subject to the Terms Established by Contract with the San Jose Soccer Complex Foundation.	

### FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

### ADJOURNMENT



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE: May 18, 2005**

Agenda Item # 1

Prepared By:

Asst. to the City Mgr.

Submitted By:

City Manager

### **THIRD QUARTER REPORT ON 2004/05 WORKPLAN**

#### **RECOMMENDED ACTION:**

**Accept report.**

#### **EXECUTIVE SUMMARY:**

Attached is the Third Quarter report on the Fiscal Year 2004/05 workplan. Each year, in conjunction with the development of the City budget, departments and divisions develop workplans to document special projects that are beyond regular and routine responsibilities. Several high-priority projects identified by the Council are included in the workplan, as are major construction projects such as the Indoor Recreation Center, the Library, and other important capital improvement program projects.

When developing the workplan, departments and divisions identify major tasks associated with particular projects and estimate the time required for completion of each task. The black lines on the report correspond with the *expected* timeline, or baseline, for completing particular tasks. The colored bars above the baseline indicate when the tasks were *actually* started and completed. If the bar is in blue, it means that staff expect the task to be completed on the originally scheduled timeline. If the bar is green, the task is expected to be completed ahead of schedule. Red bars mean the task is expected to be completed later than originally planned, and yellow bars mean that the task is on hold.

This report shows the status of all workplan projects as of March 31, 2005. At that date, 35% of the 2004-05 workplan projects were expected to be completed ahead of schedule or on time. Fifty-three percent of the projects were expected to be late, and 12% were on hold.

Projects may be completed later than originally planned or placed on hold for a variety of reasons. In some cases, such as the Urban Limit Line study and the Walnut Grove PUD project, Council direction to staff has meant that a project did not progress in the way we anticipated when developing the workplan in Spring 2004.

In other cases, a project has been delayed due to staffing reductions or vacancies, and delays on the part of partnering agencies. This is true for projects such as enhancing ridgeline and hillside protections, and for completing the third phase of the County communication compatibility project.

Staff will present a 2004/05 year-end report in August 2005.

#### **FISCAL IMPACT:**

No budget adjustment required.










# **Fiscal Year 2004-05 Workplan**

**Third Quarter Report**

**May 18, 2005**

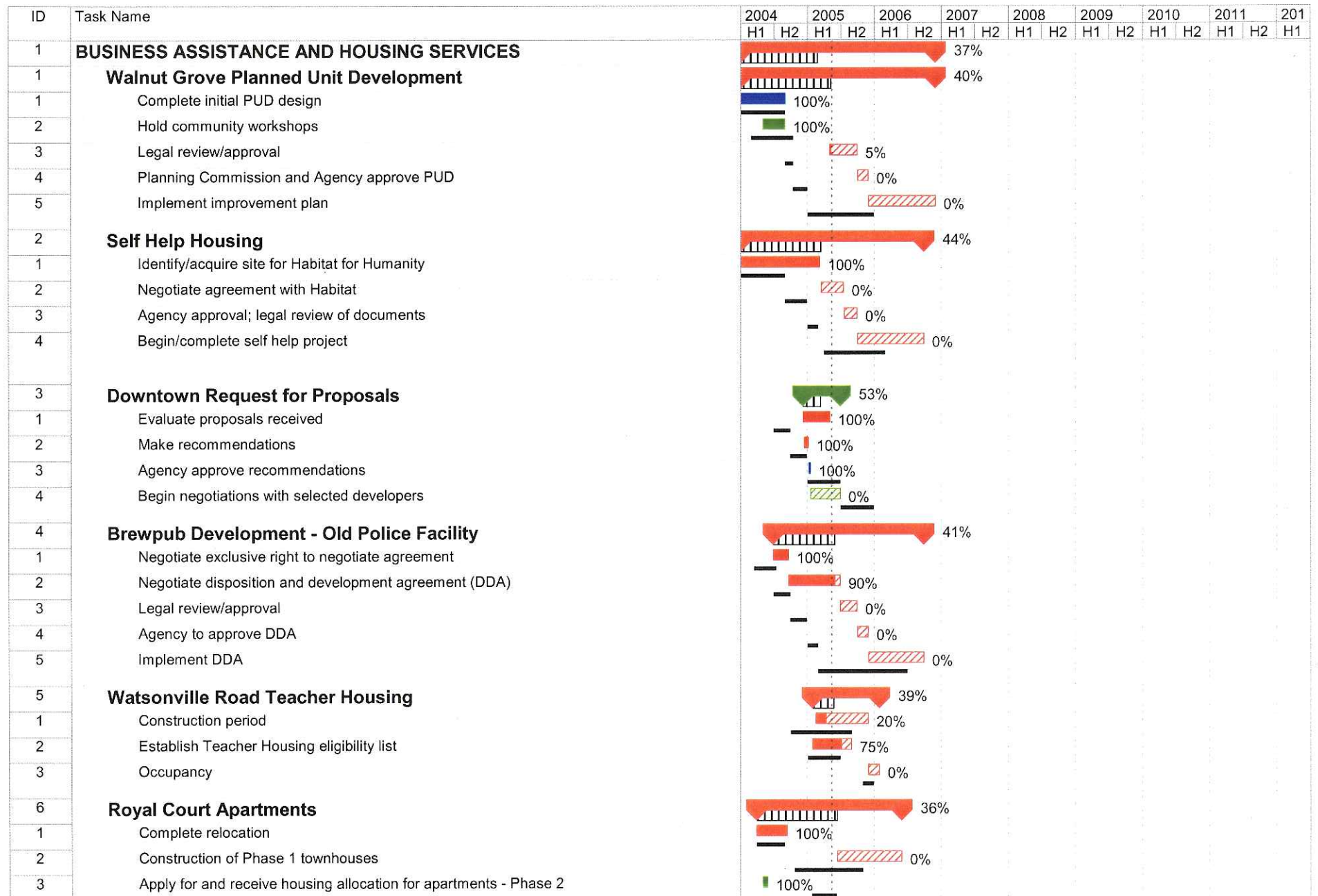


## WORKPLAN LEGEND - FY 2004-05

ID	Task Name	Jul '04		Aug '04		Sep '04		Oct '04		Nov '04											
		20	27	4	11	18	25	1	8	15	22	29	5	12	19	26	3	10	17	24	31
1	This is a baseline. It represents a department/division's projection of the time required to complete a task or project. The baseline is established at the beginning of the fiscal year and does not change over the course of the year.																			100%	
2	This is a summary bar, showing a project that was completed on time. Each project is comprised of a series of tasks, which may be displayed in one of the ways described below.																			100%	
3	This is a summary bar, showing a project that was completed early.																			100%	
4	This is a summary bar, showing a project that was completed late.																			100%	
5	This is a summary bar, showing a project that is on hold.																			0%	
6	This is an individual task that is complete. It was completed on schedule: the task bar is blue, and the time used to complete the task matches the baseline shown in black beneath it.																			100%	
7	This is a task that is 50% complete. It is projected to be completed on schedule so the bar is blue. The cross-hatched lines show that a portion of the task remains to be completed.																			50%	
8	This is a task that is 75% complete. It will take 1 month longer than planned to complete so the bar is red and it is longer than the black baseline.																			75%	
9	This task was completed ahead of schedule.																			100%	

## 2004-05 WORKPLAN

Third Quarter Update - Status as of 3/31/05.



**Third Quarter Update - Status as of 3/31/05.**

ID	Task Name	2004		2005		2006		2007		2008		2009		2010		2011		2012
		H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1
7	<b>Down Payment Assistance Program</b>																	
1	Establish program procedures & guidelines																	
2	Legal review/approval																	
3	Approve first loan																	
4	Report on program success																	
8	<b>Parking Management Plan</b>																	
1	Conduct study																	
2	Agency approves plan																	
3	Implement recommendations (complete by 2010)																	
9	<b>El Toro - Friendly Inn Master Plan</b>																	
1	Issue Request for Proposals																	
2	Select firm																	
3	Legal review/approval																	
4	Agency approves agreement																	
5	Conduct master plan process																	
6	Agency accepts master plan																	

**Third Quarter Update - Status as of 3/31/05.**

ID	Task Name	2004 H1 H2	2005 H1 H2	2006 H1 H2	2007 H1 H2	2008 H1 H2	2009 H1 H2	2010 H1 H2	2011 H1 H2	2012 H1
2	<b>CITY CLERK'S OFFICE</b>			65%						
1	<b>General Municipal Election</b>			10%						
1	Publish Notice of Election			100%						
2	Submit Resolution for a measure - NOT DONE, NO MEASURE			0%						
3	Submit Arguments for/against a measure -N/A			0%						
4	Submit impartial analysis and rebuttals - N/A			0%						
5	Election Day			100%						
6	Council declares election results			100%						
2	<b>Assign Retention Dates to All Boxes in Records Ctr</b>			100%						
1	Determine boxes which do not have an assigned retention period			100%						
2	Assign each box appropriate retention period, update records			100%						

### Third Quarter Update - Status as of 3/31/05.

ID	Task Name	2004		2005		2006		2007		2008		2009		2010		2011		2012
		H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1
3	<b>CITY MANAGER'S OFFICE</b>																	
1	<b>Complete Recruitment for Police Chief</b>																	
1	Conduct final interviews																	
2	Selection																	
3	New Police Chief begins work																	
2	<b>Study Creation of an Administrative Services Department</b>																	
1	Establish study team, identify models in other agencies																	
2	Evaluate options for an Administrative Services Department																	
3	Present draft study to Executive Team																	
4	Revise study - NO REVISIONS NEEDED																	
5	Present final study and recommendations to Council																	
6	If approved, create implementation plan for ASD - N/A																	
3	<b>Develop Strategy for Subregional Fire Protection</b>																	
1	Meet individually with stakeholders																	
2	Meet with all stakeholders to determine options for a subregional approach																	
3	Recommend strategy and implementation plan to Council																	
4	<b>Evaluate Council Committee Structure</b>																	
1	Meet with all Council-appointed bodies																	
2	Conduct legal review of the Municipal Code, as necessary - N/A																	
3	Draft recommendations for reducing costs & improving decision-making																	
4	Present final report to Council																	
5	<b>Implement Facilities Management Study Recommendations - ON HOLD</b>																	
1	With departments, develop implementation strategy																	
2	Begin implementation																	
6	<b>Launch E-Mail Communication Network - ON HOLD</b>																	
1	Develop theme, marketing strategy & collateral																	
2	Legal review of proposed model																	
3	Go live with the system																	
4	Conduct public outreach																	

## 2004-05 WORKPLAN

### Third Quarter Update - Status as of 3/31/05.

ID	Task Name	2004		2005		2006		2007		2008		2009		2010		2011		2012
		H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1
4	<b>COMMUNITY DEVELOPMENT - BUILDING</b>																	
1	<b>Redesign Building Permit Applications</b>																	
1	Redesign Building Permit Applications																	
2	<b>Develop Automated System for Calculating Fees</b>																	
1	Generate software report																	
2	Test system																	
3	Implementation period																	
3	<b>Upgrade Tidemark Permit Issuance Software Program</b>																	
1	Purchase and install equipment																	
2	Test equipment																	
3	Implement operational upgrade																	
4	<b>Implement Scanning System to Enhance Record Retention</b>																	
1	Purchase and install equipment																	
2	Test equipment																	
3	Complete operational upgrade																	

### Third Quarter Update - Status as of 3/31/05.

ID	Task Name	2004		2005		2006		2007		2008		2009		2010		2011		2012
		H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1
5	<b>COMMUNITY DEVELOPMENT - PLANNING</b>																	
1	<b>Complete Urban Limit Line Study - FINAL STEPS ON HOLD</b>																	
1	Advisory Committee develops recommendations																	
2	Sub-committee develops recommendations																	
3	City Council authorizes environmental review - ON HOLD; NO COUNCIL AUTHORIZATION																	
4	Completion of draft environmental review - ON HOLD																	
5	Completion of Planning Commission review - ON HOLD																	
6	City Council adoption of study - ON HOLD																	
2	<b>Downtown Plan Implementation</b>																	
1	Receive final environmental review from consultant																	
2	Prepare amendments and staff report for first Planning Commission hearing																	
3	Planning Commission hearing																	
4	Prepare staff report for City Council hearing																	
5	Final adoption by Council - ALL ADOPTED EXCEPT RECOMMENDATIONS ON SUNSWEET PROPERTY AND PARKING MANAGEMENT STUDY																	
3	<b>Ridgeline Mapping and Protection Plan</b>																	
1	Upgrade GIS software and add spatial analysis module to display topographic data																	
2	Map all ridgeline areas as defined by existing ordinance																	
3	Map all areas with slopes >10%																	
4	Review current hillside regulations																	
5	Research & update hillside ordinance to enhance ridgeline and hillside protections																	
6	Amend zoning map to apply the Hillside Combining District																	
7	Public hearings with Planning Commission and City Council																	
8	Prepare final ordinance																	
9	Ordinance adoption by Council																	
4	<b>Enhance Monitoring of Customer Service Satisfaction</b>																	
1	Update customer service questionnaire																	
2	Develop customer service satisfaction measures for permit applicants																	
3	Compile and report results of questionnaire and survey																	

**Third Quarter Update - Status as of 3/31/05.**

ID	Task Name	2004 H1 H2	2005 H1 H2	2006 H1 H2	2007 H1 H2	2008 H1 H2	2009 H1 H2	2010 H1 H2	2011 H1 H2	2012 H1
5	<b>Right-of-Way Protection for Arterial Streets</b>			<div><div></div></div> 0%						
1	Conduct land use survey & alignment studies to determine whether adjacent land is available for additional right-of-way	-		<div><div></div></div> 0%						
2	Evaluate easements or other techniques to reserve land for right-of-way acquisition	-		<div><div></div></div> 0%						
3	Draft revision to street standards and strategy plan		-	<div><div></div></div> 0%						
4	Workshop with Planning Commission and City Council			<div><div></div></div> 0%						
5	Prepare final strategy plan		-	<div><div></div></div> 0%						
6	Adoption by City Council		-	<div><div></div></div> 0%						

### Third Quarter Update - Status as of 3/31/05.

[illegible]

## 2004-05 WORKPLAN

Third Quarter Update - Status as of 3/31/05.

ID	Task Name	2004	2005	2006	2007	2008	2009	2010	2011	201
		H1	H2	H1	H2	H1	H2	H1	H2	H1
7	<b>HUMAN RESOURCES</b>									
1	<b>Recruitment for Community Development Director - SECOND RECRUITMENT</b>									
1	Recruitment brochure, advertising									
2	Screening of applicants									
3	Initial interviews									
4	Final interviews and selection									
5	New Community Development Director starts									
2	<b>Improve Personnel Action Form Policies and Process</b>									
1	With Finance, evaluate PAF process									
2	Collect forms/procedures from other cities									
3	Review existing policies/procedures, incorporate new technology									
4	Run new procedures concurrently with old procedures									
5	Use new procedures									
3	<b>Negotiate Labor Agreements with AFSCME and CSOA</b>									
1	Collect data, obtain Council direction									
2	City Attorney review of existing contract language									
3	Meet and confer with both groups									
4	Consult with Finance for costing of contract and payroll implications									
5	Bring new agreements to Council for approval									
4	<b>Evaluate Alternative Health Care Benefits</b>									
1	Continue to serve on Bay Area Medical Review Group									
2	Give employee census info to possible brokers									
3	Review alternatives with employee Benefits Committee									
4	Notify PERS if leaving PERS health plan									
5	Enroll employees in benefit program (new or PERS)									

76%



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75%

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### Third Quarter Update - Status as of 3/31/05.

ID	Task Name	2004		2005		2006		2007		2008		2009		2010		2011		2012
		H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1
8	<b>POLICE DEPARTMENT</b>																	
1	<b>New Police Facility</b>																	
1	Address any construction or warranty issues																	
2	<b>Mobile Communications Terminal Upgrade - Phase 1</b>																	
1	Change to general packet radio service to communicate between mobile units and dispatch																	
2	Install ergonomic upgrades																	
3	<b>Citizen Satisfaction Survey - ON HOLD</b>																	
1	Distribute survey																	
2	Report quarterly																	
4	<b>SLETS &amp; CJIC Terminal Deployment - Phase 3</b>																	
1	Expand deployment to additional workstations																	
5	<b>Update Department Training Schedule</b>																	
1	Update training plan																	
2	Market Police training facility for regional public safety training activities																	
6	<b>County Communication Compatibility - Phase 3</b>																	
1	Purchase equipment under County grant																	
2	Install equipment																	
7	<b>Update General Orders</b>																	
1	Make State-mandated revisions to General Orders																	
2	Review General Orders to match County protocols																	
3	Review and revise General Orders related to holding facilities																	
4	Review older General Orders and modify as needed																	

**Third Quarter Update - Status as of 3/31/05.**

ID	Task Name	2004		2005		2006		2007		2008		2009		2010		2011		2012
		H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1
9	<b>PUBLIC WORKS</b>																	
1	<b>Sewer System Infiltration and Inflow Project - ON HOLD</b>																	
1	Identify needed sewer line replacement/rehabilitation																	
2	Award bid - ON HOLD PENDING FURTHER STUDY																	
3	Construction - ON HOLD PENDING FURTHER STUDY																	
2	<b>Expand Curbside Recycling Program</b>																	
1	Work with Citizen's Advisory Committee and South Valley Disposal and Recycling to develop expansion proposal																	
2	Legal review																	
3	Bring draft agreement to City Council																	
4	Work with South Valley to implement program																	
5	Encourage public to participate in new program																	
3	<b>Community Indoor Recreation Center</b>																	
1	Develop construction drawings and bid documents																	
2	Award bids																	
3	Complete construction																	
4	<b>Alignment Study - Butterfield to Watsonville Road</b>																	
1	Complete preliminary alignment																	
2	Complete EIR amendment																	
3	Complete final alignment study																	
5	<b>Prepare Emergency Response Plans for Water Service</b>																	
1	Prepare and submit to US EPA within 6 months of completing Vulnerability Assessment																	
6	<b>Construction of Boys Ranch Reservoir</b>																	
1	Construction of reservoir																	

## 2004-05 WORKPLAN

### Third Quarter Update - Status as of 3/31/05.

ID	Task Name	2004		2005		2006		2007		2008		2009		2010		2011		2012
		H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1
7	<b>Establish Daffodil Distribution Program</b>																	
1	Develop theme, marketing and fundraising plans and materials																	
2	Obtain financial sponsors																	
3	Purchase and distribute bulbs																	
4	Chronicle success																	
8	<b>Construction of Lift Station G</b>																	
1	Complete design drawings																	
2	Construction of lift station																	
9	<b>Construction of Tennant-101 Traffic Signal</b>																	
1	Award contract																	
2	Construction of signal																	
10	<b>Establish Drought Landscaping Ordinance</b>																	
1	Research ordinances in place in other communities																	
2	Convene multidepartmental working group to evaluate options																	
3	Prepare draft ordinance																	
4	Legal review																	
5	Present draft ordinance to ARB																	
6	Present ordinance to Council for adoption																	

### Third Quarter Update - Status as of 3/31/05.

ID	Task Name	2004		2005		2006		2007		2008		2009		2010		2011		2012
		H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1	H2	H1
10	<b>Recreation - 2004-05</b>																	
1	<b>Aquatic Center Revenue Analysis</b>																	
1	Review target budget																	
2	Review target budget and recommend adjustments if needed																	
3	Review target budget and recommend adjustments if needed																	
2	<b>New Library</b>																	
1	Complete site design - REVISED - SCHEMATIC DESIGN																	
3	<b>Indoor Recreation Center Operational Plan</b>																	
1	Complete operational plan, including legal review																	
2	Present to Parks and Recreation Commission																	
3	Present to Council																	
4	<b>Community &amp; Cultural Center Operations Review</b>																	
1	Compile information monthly & evaluate future development of the CCC																	
2	Develop recommendations, present to Parks and Recreation Commission																	
3	Report to City Manager on strategic planning and capital needs																	
5	<b>Funding for Scholarships and Community Programming - POSTPONED TO 05/06</b>																	
1	Compile information regarding potential scholarship funding sources																	
2	Report to Council on issues and present recommendations																	
6	<b>Renegotiate Contract with South Valley Civic Theater</b>																	
1	Compile operational budget review of years 1 and 2																	
2	Meet with SVCT representative																	
3	Review proposed changes with City Attorney																	
4	Develop final agreement for Council approval																	



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: May 18, 2005***

### **LEASE WITH SOLARA ENERGY**

**Agenda Item # 2**

**Approved By:**

**Director of BAHS**

**Submitted By:**

**City Manager**

**RECOMMENDED ACTION(S):** Authorize the City Manager to amend the lease agreement, subject to legal review, with Solara Energy to: 1) allow Solara to install roll-up door improvements and be reimbursed by the City for the costs, 2) change the lease start date from April 1 to May 1, 2005 and 3) make revisions as needed to clarify the lease terms.

**EXECUTIVE SUMMARY:** In March 2005, the City Council authorized the City Manager to enter into an agreement with Solara Energy to lease the vacant 6,080 sq. ft. adjacent to the new police station. One of the business terms of the lease requires the City to install a roll-up door for Solara. However, Solara was responsible for all the other tenant improvements. In the interest of time, we are requesting that the lease be amended to allow Solara to install the roll-up door improvements and be reimbursed for the costs. The costs would remain the same to the City, but the work would be completed much sooner as Solara would not need to bid the project out as a "public works" project. Our initial estimate that the roll-up door could cost upwards of \$25,000 is still accurate. As we noted before, we would need to install this improvement to attract any user to lease the space.

In addition to the roll-up door amendment, Solara is requesting the lease start date be modified to reflect a later start date. Solara did not receive the lease until mid-April and the lease was not finalized until late April. Their request seems reasonable and we would suggest moving the start date to May 1, 2005 to make the lease start date easier to track. With regard to authority to make revisions as needed to clarify lease terms, some provisions of the lease such as the "option" to extend needs to be clarified to reflect that the option is upon mutual agreement of the parties.

Solara Energy is a provider of renewable power generation systems. Their products include solar panels, wind turbines, and fuel cells for a variety of business, recreational, and residential. uses. The company would conduct light assembly of components on site.

**FISCAL IMPACT:** None, the City previously appropriated \$25,000 from the police facility bond proceeds to construct the roll-up door improvements.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: MAY 18, 2005***

### **AWARD OF PROFESSIONAL SERVICES AGREEMENT FOR DESIGN OF TENNANT AVENUE WIDENING PROJECT**

#### **RECOMMENDED ACTION(S):**

1. Approve additional scope of work for design work for the Tennant Avenue Widening project to MH Engineering for \$27,204.
2. Authorize the City Manager to execute a professional service agreement for an amount not to exceed a total of \$53,742 for design services for the Tennant Avenue Widening project, subject to approval as to form by City Attorney.

**EXECUTIVE SUMMARY:** On November 7, 2001, Council awarded a professional services agreement to MH Engineering to design the widening of the northern side of Tennant Avenue, between Vineyard and Monterey Road to be consistent with improvements from Vineyard to SR 101. Council has previously approved amendments to the professional services agreement to include a median design and temporary construction easement plats and legal descriptions for a total cost of \$10,410. The total amended contract is currently \$44,210.

The additional scope of work is for additional topographic survey data collection due to the recently installed traffic signal and the addition of design work related to asphalt overlay of Tennant, between Church and Monterey. Construction staking, not previously included in the scope of work will now be added to improve coordination efforts between field and engineering work. In addition, scope of work will include a design fee adjustment to bring the contract up to MH Engineering's current rate schedule. The additional work is estimated at \$27,204, see attached proposal for details.

The design work for the Tennant Avenue Widening project has been on hold for approximately two years due to the delay in acquiring the necessary right-of-way for road widening. During this time, the professional services agreement has expired and the project site characteristics have changed due to the installation of the new traffic signal at Church and Tennant. The right-of-way acquisition process has now proceeded to the point that the design work can begin.

Thus far, MH Engineering has completed \$18,461.49 of work on the Amended Contract total of \$44,210 and the remaining \$23,948.51 is currently encumbered. Staff recommends preparing a new professional services agreement using the encumbered \$23,948.51 plus the additional scope of work \$27,204 for a new contract total of \$53,742. Design work shall commence upon Council's approval.

**FISCAL IMPACT:** The total cost for MH Engineering's design services for this project is \$72,204 (\$44,210+\$27,204). The additional funding of \$27,204 is budgeted for fiscal year 2004-2005 for these professional services from Capital Improvement project number 507B99, Tennant Avenue Widening.

**Agenda Item # 3**

**Prepared By:**

\_\_\_\_\_  
**Associate Engineer**

**Approved By:**

\_\_\_\_\_  
**Public Works Director**

**Submitted By:**

\_\_\_\_\_  
**City Manager**



## CITY COUNCIL STAFF REPORT

**MEETING DATE:** *May 18, 2005*

### APPROVAL OF AN AMENDMENT TO THE 2004 MOU TO CONDUCT A REGIONAL ANNUAL INTEGRATED PEST MANAGEMENT PROGRAM

**RECOMMENDED ACTION(S):** Approve amendment No. 1 establishing a trust fund for Integrated Pest Management Program

**EXECUTIVE SUMMARY:** On June 2, 2004 Council Approved an MOU to join a Regional Integrated Pest Management Program administered by Santa Clara County. By this action the City of Morgan Hill joined the following participants to form the collaborative program: Counties of Alameda, San Francisco, Santa Clara, the Santa Clara Valley Water District, Fairfield Suisun Sewer District, Vallejo Sanitation and Flood District, and Orkin Pest Management Company.

Each year a Regional Integrated Pest Management Conference is convened to inform all participants of the latest and most effective Integrated Pest Management Practices. Funds to conduct these conferences had resided with the County of Santa Clara. By the proposed amendment to the current MOU the funds would be transferred to an IPM Trust Fund. Santa Clara County has agreed to manage the funds for the next three years. All signatories of the MOU are required to approve and sign the proposed amendment No. 1.

The Memorandum Of Understanding as approved by Council and the proposed amendment No. 1 are attached. Staff recommends that Council approve the proposed amendment. Staff continues to utilize the resources for training and information offered by this program and is implementing the best Integrated Pest Management Practices to the extent practical. Staff will be attending the 2<sup>nd</sup> Annual Integrated Pest Management Conference to be held June 14, 2005.

The proposed MOU Amendment has been reviewed and approved by the City Attorney.

**FISCAL IMPACT:** None at this time. The Public Works Operations Budget continues to support the \$1200 annual expense associated with participation in the Regional Integrated Pest Management Program.

**Agenda Item # 4**

**Prepared By:**

**Deputy Director Public  
Works/Operations**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: May 18, 2005***

### **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9462, QUAIL CREEK PH. II**

#### **RECOMMENDED ACTION(S):**

1. Adopt the attached resolution accepting the subdivision improvements included in Tract 9462, commonly known as Quail Creek Ph. II.
2. Direct the City Clerk to file a Notice of Completion with the County Recorder's office.

#### **EXECUTIVE SUMMARY:**

Tract 9462 is a 12 lot subdivision located on the northeast corner of Watsonville Road and Sunnyside Avenue (see attached location map). The subdivision improvements have been completed in accordance with the requirements of the Subdivision Improvement Agreement between the City of Morgan Hill and South Valley Developers, dated January 21, 2004 and as specifically set forth in the plans and specifications approved by the City.

The streets to be accepted are:

<u>Street Name</u>	<u>Street Length</u>
Bellini Way	0.05 miles
Da Vinci Circle	0.08 miles

The value of the public improvements being accepted is \$246,425.

**FISCAL IMPACT:** Staff time for this project was paid for by development fees.

**Agenda Item # 5**

**Prepared By:**

\_\_\_\_\_  
**Senior Engineer**

**Approved By:**

\_\_\_\_\_  
**Public Works Director**

**Submitted By:**

\_\_\_\_\_  
**City Manager**

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MORGAN HILL ACCEPTING THE SUBDIVISION  
IMPROVEMENTS FOR TRACT 9462, QUAIL CREEK PH. II**

**WHEREAS**, the owner of Tract 9462, designated as Quail Creek Ph. II, entered into a Subdivision Improvement Agreement on January 21, 2004 and

**WHEREAS**, Jim Ashcraft, City Engineer, has certified in writing to the City Council that all of said improvements have been installed according to the City specifications and plans for said subdivision.

**NOW, THEREFORE**, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, AS FOLLOWS:

1. The City Council hereby finds and determines that all public improvements required to be constructed pursuant to the above-mentioned Subdivision Improvement Agreement have been completed in accordance with the plans and specifications for said improvements.
2. This resolution shall constitute an interim acceptance of all said public improvements and the date of its passage shall constitute the starting day for computing the one year maintenance provisions referred to in Paragraph 10 of the Subdivision Improvement Agreement of January 21, 2004.
3. The City Clerk, following adoption of this resolution, will file with the Recorder of Santa Clara County, California a Notice of Completion of the subdivision public improvements.
4. If requested by the developer or subdivider, the City Clerk hereby is authorized to record a certified copy of this resolution with the Recorder of Santa Clara County, California.

**PASSED AND ADOPTED** this 18<sup>th</sup> day of May, 2005.

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

**CERTIFICATION**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. adopted by the City Council at the Regular City Council Meeting of May 18, 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ**, City Clerk

Record at the request of  
and when recorded mail to:

CITY OF MORGAN HILL  
CITY CLERK  
17555 Peak Avenue  
Morgan Hill, CA 95037

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 27383

NOTICE OF COMPLETION

CITY OF MORGAN HILL

**TRACT 9462, QUAIL CREEK PH. II**

NOTICE IS HEREBY GIVEN, pursuant to Section 3093 of the Civil Code of the State of California, that the Director of Public Works of the City of Morgan Hill, California, signed below, represents the City of Morgan Hill as the owner of the public improvements for the above named development. Said improvements were substantially completed on April 29, 2005, by South Valley Developer, Inc., the subdivider of record and accepted by the City Council on May 18, 2005. Said improvements consisted of public streets, utilities and appurtenances.

The name of the surety on the contractor's bond for labor and materials on said project is Arch Insurance Company.

Name and address of Owner: City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, California

Dated: \_\_\_\_\_, 2005.

\_\_\_\_\_  
Jim Ashcraft, Director of Public Works

I certify under penalty of perjury that the foregoing is true and correct.

Irma Torrez, City Clerk  
City of Morgan Hill, CA  
Date:

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MORGAN HILL ACCEPTING THE SUBDIVISION  
IMPROVEMENTS FOR TRACT 9462, QUAIL CREEK PH. II**

**WHEREAS**, the owner of Tract 9462, designated as Quail Creek Ph. II, entered into a Subdivision Improvement Agreement on January 21, 2004 and

**WHEREAS**, Jim Ashcraft, City Engineer, has certified in writing to the City Council that all of said improvements have been installed according to the City specifications and plans for said subdivision.

**NOW, THEREFORE**, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, AS FOLLOWS:

1. The City Council hereby finds and determines that all public improvements required to be constructed pursuant to the above-mentioned Subdivision Improvement Agreement have been completed in accordance with the plans and specifications for said improvements.
2. This resolution shall constitute an interim acceptance of all said public improvements and the date of its passage shall constitute the starting day for computing the one year maintenance provisions referred to in Paragraph 10 of the Subdivision Improvement Agreement of January 21, 2004.
3. The City Clerk, following adoption of this resolution, will file with the Recorder of Santa Clara County, California a Notice of Completion of the subdivision public improvements.
4. If requested by the developer or subdivider, the City Clerk hereby is authorized to record a certified copy of this resolution with the Recorder of Santa Clara County, California.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 18<sup>th</sup> Day of May, 2005 by the following vote.

**AYES:**           **COUNCIL MEMBERS:**  
**NOES:**         **COUNCIL MEMBERS:**  
**ABSTAIN:**    **COUNCIL MEMBERS:**  
**ABSENT:**      **COUNCIL MEMBERS:**

**🦋 CERTIFICATION 🦋**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on May 18, 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** May 18, 2005

Agenda Item # 6

Prepared By:

Asst. to the City Mgr.

Submitted By:

City Manager

### **FINAL UPDATE ON DEVELOPMENT PROCESSING SERVICES STUDY IMPLEMENTATION**

#### **RECOMMENDED ACTION**

**1. Accept final report** on the implementation status of Development Processing Services Study recommendations.

#### **EXECUTIVE SUMMARY:**

In Fall 2002, the Council received a report from MAXIMUS, Inc. with 39 recommendations for improving the City's development processing services. Since that time, staff have been working to address the recommendations made. Staff last updated the Council on the status of the recommendations on November 3, 2004, and scheduled this follow-up report at that time. The table in Attachment A shows the current status of each of the recommendations made by MAXIMUS. Two-thirds of the recommendations have already been put into practice.

At this time, staff suggest that no further updates be scheduled. Completion of the items which are currently *in process* will be tracked through department workplans, adoption of the budget, and Council activity. The items now *deferred* all involve significant financial commitments that are unlikely to be funded in the next two years.

At this time, the following recommendations are *in process*. When an estimated completion date is known, it is listed after the recommendation:

- (1.1) Acquire capability to provide online access for issuance of simple permits, for inspection requests and to provide access to project status (No completion date set; to be studied further in 2005/06)
- (2.0) Work toward creation of a one-stop permitting center housing all development review departments (2008/09)
- (2.1) Assign Engineering representative to City Hall part-time (second assignment 2005/06)
- (3.0) Fill Senior Planner vacancy and fund half-time contract planner (2005/06)
- (6.1) Base Architectural and Site Review on definitive standards (2005/06)
- (6.2) Cite specific standards for architectural and site design requirements (2005/06)
- (6.4) Reconsider use of City-initiated PUD rezoning to control design of commercial developments (2005/06)

As has been true for the last two years, five study recommendations remain *deferred* due to budget constraints. With major capital investments in City operations currently on hold, there is no estimated completion date for these items:

- (1.0) Implement automated permitting and project tracking in all divisions.
- (1.2) Acquire capability to integrate GIS with the permitting system
- (8.2) Phase out multiple files for a single project (requires Tidemark software update)
- (9.3) Use Tidemark system to alert for deadlines and measure development review performance in Engineering
- (13.0) Create a full time position for a building maintenance supervisor

#### **FISCAL IMPACT:**

No budget adjustment required at this time.



## Status Report on Implementation of Study Recommendations

No.	Recommendation	Pri- ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommendation
<b>Cross-departmental Recommendations</b>								
1.0	Implement automated permitting & project tracking in all divisions. Provide tech support and training	1		Community Development Director/Public Works Director			Deferred. Implemented in Planning only.	Implementation is complete in Planning, but deferred in PW due to budget constraints.
1.1	Acquire capability to provide online access for issuance of simple permits, for inspection requests and to provide access to project status	2	Within 3 years. (Depends on availability of reliable software)	Community Development Director/Public Works Director	IVR system in place for inspection requests by phone. Capital cost for e-permitting, incl. project status approx. \$125,000. Maint. cost \$6,000 per yr.	Not budgeted.	In process. Staff will study further during 05/06.	Based on reports from other communities, this technology is not fully functional at this time, and the cost remains prohibitive. Staff will study this further in FY 05/06 and report back on the feasibility of implementing this service.
1.2	Acquire capability to integrate GIS with the permitting system	2	FY 2003-04	Public Works Director	Capital cost approx. \$10,000. Annual maint. cost unknown	Not budgeted.	Deferred due to budget constraints.	A GIS needs analysis has been completed.
2.0	Work toward creation of a one-stop permitting center housing all development review departments	3	FY2007-08	City Manager/ City Council	Unknown	Remodeling the library for City use is in the CIP budget for FY 08/09.	In process. Pending construction of a new library.	The current CIP assumes that a new Library will be built on Alkire Road and that the old library will be remodeled and used by CDD and PW staff.

No.	Recommendation	Pri- ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommendation
2.1	Assign Engineering representative to City Hall part-time	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	In process. Pending filling vacancy in Engineering.	Staff assigned for approximately 18 months, but halted due to vacancy. Expect to assign new staff person in 7/05.
3.0	Obtain expedited processing for economically important projects through the Econ. Dev. Coordinating Group and division managers	1	Immediate	BAHS Director/ Community Development Director/Public Works Director	No cost	No budget impact.	Complete, and ongoing.	This procedure has been incorporated. Staff will continue to evaluate the effectiveness of our procedures for processing economically important projects.
3.1	Document schedules for expedited processing of economically important projects	1	Immediate	BAHS Director/ Division Managers	No cost	No budget impact.	Complete, and ongoing.	
<b>Planning Division Recommendations</b>								
4.0	Fill Senior Planner vacancy and fund half-time contract planner	1	FY 2002-03	Community Development Director	Sr. Planner \$93,000 in current budget. Half-time contract planner approx. \$60,000		In process. Deferred 04/05 due to budget constraints; proposed in 05/06 budget.	Hiring a Senior Planner and Assistant Planner is proposed in the FY 05/06 budget.

<b>No.</b>	<b>Recommendation</b>	<b>Pri- ority</b>	<b>Timeline to Initiate</b>	<b>Responsibility</b>	<b>Cost</b>	<b>Currently budgeted? If not, staff funding recommendations</b>	<b>Current status of this recommen- dation</b>	<b>Staff comments about implementing this recommendation</b>
5.0	Upgrade performance standards and improve performance measurement for development review in Planning	1	FY 2002-03	Planning Manager	No cost	No budget impact.	Complete and ongoing.	Performance measures for development review have been incorporated in the Planning Division's performance measures.
5.1	Begin routing applications within two work days	1	Underway	Planning Manager	No cost	No budget impact.	Complete	
5.2	Establish timelines for initial reviews and re-submittal reviews	1	Immediate	Planning Manager	No cost	No budget impact.	Complete and ongoing.	A streamlined process has been developed. Specific timelines will be included in the update of the policy and procedures manual.
5.3	Comply with recommended timelines for building plan check review	1	When staffing allows	Planning Manager	Staffing costs shown in 4.0	Budget adjustment made to continue contract planner position.	Complete and ongoing.	Staff meet the recommended timelines 95% of the time. When delays occur, they are typically no more than 1-2 days. Compliance is monitored through the Development Review Committee process.

<b>No.</b>	<b>Recommendation</b>	<b>Pri- ority</b>	<b>Timeline to Initiate</b>	<b>Responsibility</b>	<b>Cost</b>	<b>Currently budgeted? If not, staff funding recommendations</b>	<b>Current status of this recommen- dation</b>	<b>Staff comments about implementing this recommendation</b>
5.4	Use Tidemark system to alert for deadlines and measure development review performance in Planning	1	FY 2002-03	Planning Manager	No additional cost (system is being implemented)		Complete and ongoing.	
5.5	Track re-submittals in Planning and review when more than one is required	1	FY 2002-03	Planning Manager	No cost	No budget impact.	Complete and ongoing.	This has been added to the Division Work Plan as a performance measure.
5.6	Clarify customer service policies and notify applicants	1	Immediate	Planning Manager	No cost	No budget impact.	Complete.	Applicants routinely receive letters stating the Division's customer service policies.
5.7	Document meeting results in writing	1	Underway	Planning Manager	No cost	No budget impact.	Complete and on-going	This recommendation is already a standard practice.
6.1	Base Architectural and Site Review on definitive standards	1	Underway	City Council/ ARB/Comm. Dev. Director	ARB handbook and design review ord. underway. Added cost \$4,000	Budgeted 02-03.	In process. City Council Handbook approval is expected by 9/05.	This was delayed to enable timely completion of development application processing, and implementation of the Downtown Plan.

<b>No.</b>	<b>Recommendation</b>	<b>Pri- ority</b>	<b>Timeline to Initiate</b>	<b>Responsibility</b>	<b>Cost</b>	<b>Currently budgeted? If not, staff funding recommendations</b>	<b>Current status of this recommen- dation</b>	<b>Staff comments about implementing this recommendation</b>
6.2	Cite specific standards for architectural and site design requirements	1	Immediate	ARB/Planning Manager	No cost	No budget impact.	In process. City Council approval of the Handbook is expected by 9/05.	Same as above.
6.3	Forward non-compliant project designs without delay to ARB for disposition	1	Underway	Planning Manager	No cost	No budget impact.	Complete and ongoing	This is now a standard practice.
6.4	Reconsider use of City-initiated PUD rezoning to control design of commercial developments	2	FY 2002-03	Community Development Director	Can be included in zoning ordinance update. No added cost.	No budget impact.	In process.	City is working to establish PUD guidelines for economically important sites. Walnut Grove PUD process was initiated, but is now on hold pending further Council discussion.
7.0	Consider changes to Measure P to reduce processing time and staff workloads	2	FY 2003-04	City Council/Voters	Possible cost reduction		Complete.	The initiative approved by voters did not reduce processing time.
8.1	Negotiate blanket contracts with consultants for environmental review	1	FY 2002-03	Planning Manager/City Council	No cost	No budget impact.	Complete.	

No.	Recommendation	Pri- ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommendation
8.2	Phase out multiple files for a single project	1	FY 2002-03	Planning Manager	No cost	No budget impact.	Deferred due to budget constraints.	Projects are being filed under single file number; however, some projects require multiple files due to the volume of paperwork. For this recommendation to be implemented most fully, the Division should update Tidemark, which would incur both software and hardware expenses.
<b>Engineering Division Recommendations</b>								
9.1	Reduce processing time goals for initial submittals in Engineering to 6 weeks	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	Complete	
9.2	Comply with recommended timelines for building plan check review	1	FY 2002-03	Public Works Director	Minimal Cost	No budget impact.	Complete and ongoing.	
9.3	Use Tidemark system to alert for deadlines and measure development review performance in Engineering	1	FY 2002-03	Public Works Director	No cost	See notes on recommendation 1.	Deferred due to budget constraints.	See notes on recommendation 1. Deploying Tidemark in PW is currently on hold.

No.	Recommendation	Pri- ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommendation
9.4	Track re-submittals in Engineering and review when more than two are required	1	FY 2002-03	Public Works Director	No cost	No budget impact.	Complete	
9.5	Clarify customer service policies and notify applicants	1	Immediate	Public Works Director	No cost	No budget impact.	Complete	
9.6	Document meeting results in writing	1	Immediate	Public Works Director	No cost	No budget impact.	Complete	
10	Develop fast-track processing procedures in Engineering for simple projects	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	Complete	
<b>Building Division Recommendations</b>								
11.1	Define plan check timelines for different project types in Building	1	Immediate	Chief Building Official	No cost	No budget impact.	Complete.	
11.2	Route building plans to other divisions within 2 work days	1	Immediate	Chief Building Official	No cost	No budget impact.	Complete	
11.3	Eliminate unnecessary routing of building plans to other divisions	1	FY 2002-03	Chief Building Official	No cost	No budget impact.	Complete	

<b>No.</b>	<b>Recommendation</b>	<b>Pri- ority</b>	<b>Timeline to Initiate</b>	<b>Responsibility</b>	<b>Cost</b>	<b>Currently budgeted? If not, staff funding recommendations</b>	<b>Current status of this recommen- dation</b>	<b>Staff comments about implementing this recommendation</b>
11.4	Do in-house plan check for all building plans with a recommended plan check goal $\leq$ 5 days	2	FY 2003-04	Chief Building Official	Possible cost reduction.	No budget impact.	Complete	
11.5	Track review times for all units involved in plan check process and prepare reports	1	FY 2002-03	Chief Building Official	Minimal cost	No budget impact.	Complete	
12.0	Respond to 95% of building inspection requests within 1 work day and all within 2 days	1	Ongoing	Chief Building Official	No cost	No budget impact.	Complete	
13.0	Create a full-time position for a building maintenance supervisor	2	FY 2003-04	Community Development Director	Unknown. Some of cost should be offset by savings in contract services	Not budgeted for FY 05-06.	Deferred due to budget constraints.	Staff estimate that \$12k in contract plan check fees would help offset the staffing increase.
14.0	Reclassify one existing building inspector position to a senior building inspector position	2	FY 2003-04	Community Development Director	Added cost approx. \$10,000 per year	Proposed in FY 03-04 budget.	Complete	
15.0	Develop more detailed application brochures for most common types of plan checks	1	FY 2003-04	Chief Building Official	Minimal cost	No budget impact.	Complete.	



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: May 18, 2005***

### **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) 2005 QUARTERLY REPORT #1**

#### **RECOMMENDED ACTION(S):**

Accept and File the RDCS First Quarter Report for 2005

#### **EXECUTIVE SUMMARY:**

In accordance with Section 18.78.150 of the Municipal Code, the Community Development Department is required to review, on a quarterly basis, each proposed development which has received a Residential Development Control System (RDCS) allotment. The purpose of this review is to determine whether satisfactory progress is being made with processing of the appropriate plans with the Community Development Department.

The majority of the residential projects are proceeding according to approved development schedules. The following projects are classified as BEHIND SCHEDULE: E. Dunne-Grewal (MMP-00-02), Cory-San Pedro Partners (MP-02-07), E. Central-Warmington (MP-02-19), Sunnyside-Quail Creek (MP-02-24), Barrett-Ditri-(MP-02-20), Hill-Gera (MP-02-17), Cochrane-Borello (MP-03-04), E. Dunne-Dempsey (MP-02-06), Barrett-Odishoo (MP-02-02), Monterey-South County Housing (MP-04-02), DeWitt-Latala (MMP-03-06), and W. Main-Vierra (MMP-03-09).

Since the Quarterly Report was completed, Cory-San Pedro Partners and Sunnyside-Quail Creek have pulled building permits and are no longer behind schedule. E. Central-Warmington and Hill-Gera have applied for ELBA's, and are scheduled to be heard by the Planning Commission on May 24, 2005. Barrett-Ditri is processing their third plan check and will pull permits upon plan check approval. Cochrane-Borello, E. Dunne-Dempsey, Barrett-Odishoo, Monterey-South County, and DeWitt-Latala are working on map and plan submittals that will put their projects back on schedule. W. Main-Vierra is still under appeal.

During the first quarter monitoring period, RDCS projects have secured 74 additional building permits and completed construction of 80 homes.

By a vote of 7-0, the Commission approved the Quarterly Report by minute action and recommended the same by the Council. A copy of the 1st Quarterly Report for 2005 and the draft minutes of the April 26, 2005 Planning Commission meeting are attached for the Council's reference.

#### **FISCAL IMPACT:**

Preparation of this report was accomplished with monies from the Community Development Fund.

Agenda Item # 7

Prepared By:

Planning Technician

Approved By:

Kathy Molloy Previsich  
Director of Community  
Development

Submitted By:

J. Edward Tewes, City  
Manager



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** May 18, 2005

Agenda Item # 8

Submitted By:

Dennis Kennedy,  
Mayor

### **EXTEND TERMS OF OFFICE FOR THREE CURRENT PLANNING COMMISSIONERS, SCHEDULE INTERVIEW DATE, AND EXTEND TERMS OF OFFICE FOR THREE ARCHITECTURAL REVIEW BOARD (ARB) MEMBERS**

#### **RECOMMENDED ACTION(S):**

- 1) **Extend** Terms of Office for Three Current Planning Commissioners Until Such Time That the City Council Concludes the Interview and Appointment process;
- 2) **Schedule** a Special City Council Meeting for June 8, 2005 to conduct Planning Commission interviews; and
- 3) **Extend** Terms of Office for Three Current Architectural Review Board Members Until Such Time that Vacancies are Filled

#### **EXECUTIVE SUMMARY:**

Due to a scheduling conflict, I am requesting that the City Council extend the current terms of office for the three Planning Commissioners whose terms are due to expire on June 1, 2005: Geno Acevedo; Robert Benich, and Charles Weston. I am suggesting that the Council conduct Planning Commission interviews to fill three positions in June 2005. I would ask that the Council tentatively reserve Wednesday, June 8, 2005, 5:30 p.m., to hold a special meeting to conduct interviews. The Council would not appoint on June 8, but rather, discuss and make appointments at the next regularly scheduled City Council meeting (June 15). I respectfully request that the Council support this interview/appointment schedule and agree to extend the terms of the three Planning Commissioners until such time that the Council fills the three vacancies.

Regarding the ARB, the City has not received applications to fill three upcoming vacancies and there is one current vacancy. The following Board Members have terms expiring June 1, 2005: Jim Fruit, Rob Martin and Jerry Pyle. Board Member Lori Cain has resigned from the ARB effective May 1, 2005. Therefore, staff is recommending that the terms of these three Board Members be extended until the Council is able to fill these vacancies.

**FISCAL IMPACT:** No budget adjustment required.



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *May 18, 2005*

**Agenda Item # 9**

**Prepared and  
Approved By:**

\_\_\_\_\_  
**Human Resources Dir.**

**Submitted By:**

\_\_\_\_\_  
**City Manager**

### **AMENDMENT TO THE MANAGEMENT RESOLUTION**

#### **RECOMMENDED ACTION(S):**

1. Adopt the attached resolution amending the Management, Professional and Confidential Employees Resolution 5872 to change the salary range for the position of Utility Systems Manager, to change the title of the Police Support Services Supervisor to Police Support Services Manager and to change the salary range for that position, and to delete the position of Human Resources Supervisor.

#### **EXECUTIVE SUMMARY:**

Filling the position of Utility Systems Manager following the retirement of the incumbent in December, 2004 proved to be extremely difficult. The first recruitment process netted no eligible candidates and the Public Works Department requested that the Human Resources Department conduct a salary survey for the position. During the time period that the survey was conducted the City hired a search firm to conduct another recruitment process. The brochure advised that the salary range was under review. Both the salary review and the selection process are now complete. The salary survey for Utility Manager confirmed the need for an increase and the proposed increase is appropriate given the results of the survey and our internal equity review of management salaries. It is recommended that the new range be approved so that the job offer can be made using the new wage. This position requires possession of State of California Water Certifications and is therefore eligible to receive an additional 2.5% of pay for the required certifications.

Following any salary survey, it is best practice to compare the market information with internal position comparability. In doing so, it was evident that the position of Police Support Services Supervisor shares a similar span of control and management responsibility so it is appropriate for the position at this time to be renamed Police Support Services Manager and the salary range adjusted accordingly.

The position of Human Resources Supervisor was eliminated from the budget effective January 1, 2005 so it should be removed from the management resolution.

#### **FISCAL IMPACT:**

There is no fiscal impact on the 2004-05 budget because of salary savings from vacant positions within the departments. The new ranges will be incorporated in the 2005-06 budget.

#### **LIST OF ATTACHMENTS:**

##### **ATTACHMENT A**

Resolution Establishing/Changing/Deleting Position(s) and Salary Range(s)

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF MORGAN HILL AMENDING THE MANAGEMENT,  
PROFESSIONAL AND CONFIDENTIAL EMPLOYEES  
RESOLUTION NO. 5872**

**WHEREAS**, the City Manager has presented to the City Council of the City of Morgan Hill a recommended salary change for the mid-management position of Utility Systems Manager, and;

**WHEREAS**, the City Manager has presented to the City Council of the City of Morgan Hill a recommended title change for the position of Police Support Services Supervisor to that of Police Support Services Manager with a recommended salary change, and;

**WHEREAS**, the City Manager has presented to the City Council of the City of Morgan Hill a recommendation to delete the classification of Human Resources Supervisor, and;

**WHEREAS**, the City Council of the City of Morgan Hill has reviewed said recommendations, and;

**WHEREAS**, the City Council of the City of Morgan Hill has the authority to approve, change and delete job classifications and salary ranges;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morgan Hill as follows:

**SECTION 1 - POSITION CLASSIFICATIONS**

- A. The classification for the position of Police Support Services Supervisor is hereby changed to Police Support Services Manager.
- B. The classification and salary range for the position of Human Resources Supervisor is hereby deleted.

**SECTION 2 - SALARY RANGES**

- A. The classification and salary range for the position of Utility Systems Manager and Police Support Services Manager is hereby established as follows. The salary stated includes the 7% employee PERS contribution which is deducted from payroll.

JOB CLASSIFICATION	SALARY RANGE		
	Bottom	Top	Performance Pay
Utility Systems Manager	\$6,545	\$8,185	\$8,390
Police Support Services Manager	\$6,545	\$8,185	\$8,390

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 18<sup>th</sup> Day of May, 2005 by the following vote.

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**🦉 CERTIFICATION 🦉**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on May 18, 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: May 18, 2005***

**Agenda Item # 10**

**Prepared By:**

**Deputy City Clerk**

**Approved By:**

**City Clerk**

**Submitted By:**

**City Manager**

### **ADOPT ORDINANCE NO. 1723, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 619, NEW SERIES AND ORDINANCE NO. 955, NEW SERIES, ESTABLISHING A LIST OF PERMITTED AND CONDITIONAL USES ON A 4.8 ACRE INDUSTRIAL PLANNED UNIT DEVELOPMENT ON THE WEST SIDE OF VINEYARD BOULEVARD, NORTH OF VINEYARD COURT. (APN 817-02-055 thru 062) (ZAA-89-16: Church-LaBrucherie)**

### **RECOMMENDED ACTION(S):**

**Waive** the Reading, and **Adopt** Ordinance No. 1723, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

### **EXECUTIVE SUMMARY:**

On May 4, 2005, the City Council Introduced Ordinance No. 1723, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

### **FISCAL IMPACT:**

No budget adjustment is required.

## **ORDINANCE NO. 1723, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 619, NEW SERIES AND ORDINANCE NO. 955, NEW SERIES, ESTABLISHING A LIST OF PERMITTED AND CONDITIONAL USES ON A 4.8 ACRE INDUSTRIAL PLANNED UNIT DEVELOPMENT ON THE WEST SIDE OF VINEYARD BOULEVARD, NORTH OF VINEYARD COURT. (APN 817-02-055 thru 062) (ZAA-89-16: Church-LaBrucherie)**

### **THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:**

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration has been filed.
- SECTION 4.** The City Council finds that the proposed amendments to the Planned Unit Development District are consistent with the criteria specified in Chapter 18.30 of the Morgan Hill Municipal Code.
- SECTION 5.** The Council hereby approves a list of allowable uses within Lots 1 thru 8 on a 4.8 acre PUD on the east side of Church Street and west side of Vineyard Boulevard, as shown on the attached zoning plat (Exhibit A), to include those uses identified in the attached Exhibit B.
- SECTION 6.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- SECTION 12.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 4<sup>th</sup> Day of May 2005, and was finally adopted at a regular meeting of said Council on the Day of May 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1723, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of May 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

## **Exhibit “B”**

### **The Labrucherie Planned Unit Development (PUD)**

**The Labrucherie PUD is an ML (light industrial) area intended to provide facilities for research, administrative, lighter manufacturing, wholesale and heavy service commercial uses not suitable to commercial districts.**

#### **Permitted Uses**

The following uses shall be permitted in the Labrucherie PUD:

- A. Administrative and executive offices;
- B. Medical, dental, research, experimental, film and testing laboratories;
- C. Manufacturing, assembly or packaging of products from previously prepared materials, such as cloth, plastic, paper, leather, precious or semiprecious metals or stones, but not any manufacturing uses involving primary production from raw materials (e.g. animal hides, trees, raw metals, etc.);
- D. Agriculture, including nurseries, but not including raising animals for commercial purposes;
- E. Manufacture of electric and electronic instruments and devices;
- F. Construction and related trades businesses which include indoor warehousing and/or wholesale components;
- G. Wholesale, including electrical, plumbing, cabinet, sheet metal, and heating and air conditioning shops;
- H. Retail sales that are ancillary and supportive of electrical, plumbing, cabinet and heating and air conditioning shops. The floor area devoted to retail display and sales may occupy no more than 15% of the gross floor area of the building as occupied by the business and must be separated from other portions and uses by permanent walls.
- I. Minor motor vehicle repair;
- J. Print, photo copy and lithographic shops;
- K. Upholstery shops;
- L. Sales of goods manufactured, processed or assembled on the premises;
- M. Software development;
- N. Research and development;
- O. Woodworking shops, but not including such operations as saw and planing mills or production of wood products from raw materials;
- P. Welding and machine shops;
- Q. Business Service Firms (janitorial, landscaping, exterminating, etc.);
- R. Trade and business schools for adults only;
- S. Sign shops;
- T. Commercial athletic facilities (i.e. health clubs, gyms, handball, basketball, volleyball, racquetball )for adults only;
- U. Repair shops for household or commercial items

### **Conditional Uses**

The following uses may be conditionally allowed in the Labrucherie ML light industrial PUD subject to issuance of a conditional use permit in accordance with Chapter 18.54 of the Morgan Hill Planning and Zoning Codes.

- A. Sales of goods manufactured, processed or assembled on the premises, where the retail sales and display area exceeds 25% of the gross floor area of the building as occupied by the business.
- B. Public or quasi-public uses of an educational, vocational or recreational nature;
- C. Public utility buildings and service yards;
- D. Warehouses and distribution depot facilities;
- E. Animal hospital and veterinary clinics;
- F. Mini-storage facilities;
- G. Major motor vehicle repair;
- H. Auction houses;
- I. Business services, such as accounting, advertising and direct mail, credit reporting, data processing, employment agencies, messenger, courier and delivery services, travel agencies, packaging and labeling;
- J. Reverse vending machines and recycling centers as defined in Public Resources Code Section 14420.5 and 14520.
- K. Religious institutions;
- L. Home improvement centers;
- M. Caretakers units;
- N. Commercial recreation, not otherwise listed in the permitted use section;
- O. Any other use which the City Council and/or Planning Commission finds to be of similar nature to the permitted uses and conditional uses specified in the chapter for ML zoning districts in the Morgan Hill Planning and Zoning Codes.
- P. Retail, including sales, rental, display, storage, repair and servicing of bulky commodities including:
  - a. Carpeting and other floor coverings,
  - b. Catalog and other mail order sales,
  - c. Catering and party rentals,
  - d. Construction equipment and machinery,
  - e. Garden and farm equipment,
  - f. Carpeting and other floor coverings,
  - g. Catalog and other mail order sales,
  - h. Catering and party rentals,
  - i. Outdoor display of construction equipment and machinery,
  - j. Other construction industry related products,
  - k. Office furniture, equipment and machinery, including computers, and
  - l. Household furniture.

The floor area devoted to retail display and sales may occupy no more than 15% of the gross floor area of the building as occupied by the business and must be separated from other portions and uses by permanent walls. (However, the Planning Commission may authorize an increase of retail and display floor area to a maximum of 25% of the gross floor area of the building as occupied by the business when it finds that, due to exceptional circumstances associated with the building or the existing and/or proposed

retail use of the building, such increase is warranted.) Such retail use must be conducted completely within the building and served by on-site employees. Customer parking must be consistent with the requirements of Chapter 18.50 of Division 1 of the Morgan Hill Planning and Zoning Codes. The business must maintain the industrial character, including signs, of the district

The following uses are prohibited from locating in the Labrucherie Planned Unit Development:

- A. All Group I occupancies;
- B. All Group E occupancies which involve day care, mentally retarded persons (profoundly or severely) or non-ambulatory persons, For the purposes of this section, these uses shall be as defined by the Uniform Building code with the state of California amendments, as amended and as adopted by the City.

**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL  
COYOTE VALLEY SPECIFIC PLAN WORKSHOP  
MINUTES – APRIL 26, 2005**

**CALL TO ORDER**

Mayor Kennedy convened the Coyote Valley Specific Plan Workshop at 7:05 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Member Tate and Mayor Kennedy  
Late: Council Member Sellers  
Absent: Council Members Carr and Grzan

**WELCOME AND INTRODUCTIONS**

City of Morgan Hill: Ed Tewes, City Manager; Kathy Molloy Previsich, Director of Community Development; David Bischoff, Contract Planner

City of San Jose: Forrest Williams, Council Member; Darrel Boyd, Principal Planner; Emily Moody, Assistant to Council Member Williams; Jennifer Malutta, Deputy Chief of Staff, Office of Mayor Ron Gonzales; Joe Horwedyl, Director of Planning; Luke Vong, Associate Engineer, Department of Transportation; Manuel Pineda, Senior Engineer, Department of Transportation; Mike Mena, Planner; Paul Ma, Department of Transportation; Sal Yakabu, Principal Planner; Jodi Starbird, David Powers & Associates; Eileen Goodwin, Apex Strategies; Mike Waller, Hexagon Transportation Consultants

Stakeholders: Alex Kennett, Open Space Authority; Carolyn McKennan, Superintendent, Morgan Hill Unified School District; Connie Ludewig, San Martin Neighborhood Association; Jack Faraone, Coyote Valley Landowner; Rebecca Van Dahlen, Santa Clara County Association of Realtors; Russ Danielson, Coyote Valley Specific Plan Task Force; Shelle Thomas, Morgan Hill Unified School District Board Member; Peter Mandel, Morgan Hill Unified School District Board Member; and Steve Kinsella, President, Gavilan College

**DECLARATION OF POSTING OF AGENDA**

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

## **OPPORTUNITY FOR PUBLIC COMMENT**

Mayor Kennedy opened the floor to public comment for items not listed on the evening's agenda. No comments were offered.

Joe Horwedyl addressed the Coyote Valley Specific Plan and related Environmental Impact Report (EIR) process. He addressed the potential environmental impacts associated with land use, transportation, air quality, noise, hydrology, geology & soils, biology, cultural resources, hazardous materials, visual and aesthetic resources, utilities/energy, and public facilities and services. He explained the California Environmental Quality Act (CEQA) and the EIR process as part of a specific plan. He addressed the EIR alternative requirements. He said that the City of San Jose is reviewing the impacts associated with the development of Coyote Valley, indicating that they are still collecting data and that they have not yet begun the analysis associated with any impacts. He said that CEQA requires that as impacts are identified, agencies are to look at ways of minimizing the impacts. Mitigation measures would be built into the project in order to lessen the impacts; tweaking plans to minimize the impacts. He stated that project alternatives need to be feasible, accomplish most of the objectives of the project, and avoids or substantially reduces the significant impacts. He said that the City of San Jose has identified 16 objectives/goals for Coyote Valley; including meeting the objectives of San Jose's general plan. He said that there is a rule of reason that stipulates that public/lead agencies do not need to look at every alternative, but need to review a reasonable range of alternatives. He expects that the City of San Jose will look at 15 alternatives based on the size of the project. The intent of the alternatives is to foster an informative decision making process.

Mr. Horwedyl said that the City of San Jose City Council is looking toward 16 outcomes/objectives for the project (e.g., affordable housing, no development in greenbelt, living within the confines of the plan, 50,000 jobs and housing to be constructed, consistency with the general plan, etc.). He said that the City of San Jose will look at ideas that are identified and decide how they are to be studied. He felt that 10-20 ideas would be studied and reviewed as part of the EIR process. There are different types of project alternatives to be looked at, including a "no project" alternative. He said that under the no project alternative, jobs would still be developed based on the approval of Cisco development. San Jose will look/analyze: the Greenbelt Alliance Plan; issues associated with the core infrastructure/land use plan (e.g., central lake/park concept), realignment of Fischer Creek; Santa Teresa Boulevard circulation, development on the east side of Monterey Road, wetlands); reduced scale alternative (reduced project would have less impacts on air, traffic, services, water supply, sewage demand, etc.); jobs/housing alternatives to be looked at as part of a reduced scaled project, including uneven reductions in housing/jobs, and finding an alternative location(s). However, finding an alternative location(s) would be a challenge. He said that until all the reports are completed, it is not known which impacts would be potentially significant, and that the alternatives would be a moving target as the EIR process moves forward.

School Board Member Mandel noted that in the work being done, the San Jose City Council is moving forward with 16 outcomes. Yet, it is being stated that alternatives are being reviewed. He inquired

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whether this is the process where the 16 outcomes are considered and whether new goals would be identified as part of the process.

Mr. Horwedyl said that Sal Yakabu and his staff need to come up with a plan that meets the 16 outcome criteria and that it is his job to analyze the plan to see if it is the best environmentally balanced project that can be designed; and if not, to look at items that would balance the project. He stated that he has a little more latitude in looking at the 16 goals. In looking at a reduced project, he would be at odds with the San Jose City Council's goal of providing 55,000 jobs and 25,000 housing units. Should he analyze something in the EIR that states that 25,000 jobs and 20,000 housing units is the best alternative, he would explain this in the EIR. The Council would then need to decide whether they want to hold to the original plan or look at a different project alternative model.

Mr. Horwedyl indicated that the Greenbelt Alliance Plan did not include the 16 goals. He stated that he advised the San Jose City Council last month that staff is using a framework to look at alternatives such as transportation, elimination of a parkway road system, use of a grid iron road system, flood control alternatives, biology, services that include school standards, and land use (e.g., use of a more compact foot print, greenbelt, etc.). He addressed comments received relating to alternative locations. He said that there are a number of alternative locations that can be looked at and analyzed as part of the EIR. (e.g., build the project on the foothills). However, there is a premise that the project cannot make impacts worse. There is a question regarding using the Greenbelt Alliance Plan alternative or to look at certain components of the plan. It is being suggested that major components be reviewed. He addressed triggers (e.g., no development in Coyote Valley until 5,000 jobs have been developed and the City of San Jose has secured economic health; providing services based on certain level standards). He said that the Task Force will discuss triggers and step alternatives to development. He stated that jobs are important to the way they will balance the transportation network. To be discussed is how you pay for the entire plan. He noted that it would cost approximately \$100 million to construct the infrastructure. It is believed that residential development will pay for most of the infrastructure/services. These will be ongoing discussions.

Council Member Sellers entered and was seated.

Mr. Horwedyl addressed the schedule, indicating that it is a goal to circulate an EIR later this year and that it is proposed to add an additional review period to the required 45-day review period. He said that once the San Jose City Council decides on the preferred plan, he would begin to describe alternatives to the preferred plan. He clarified that the majority of the EIR will be describing the Plan. He indicated that the San Jose City Council has selected a preferred plan that will have a variety of detail. He stated that he is writing an EIR based upon a specific plan and a zoning document. The EIR would not be describing details or specificity. Details would be reviewed under later approvals. He said that the San Jose City Council has accepted the specific plan before the stakeholders group. The plan will discuss the number/types of housing units and types of commercial uses, etc.

Mayor Kennedy inquired as to the best way that the City of Morgan Hill and the Coyote Stakeholders can bring forth a preferred alternative.

Mr. Horwedyl responded that the notice of preparation of the EIR would be released in mid May 2005. This would be the kick off of the EIR process. This would be an opportunity for other public agencies, the community and interested parties to provide information to the City of San Jose about information that should be included in the EIR and whether there are other alternatives to be reviewed. He said that now is the time to identify alternatives (sooner rather than later in order to be included in the EIR process).

Mayor Kennedy said that Mr. Yakabu and staff have been working on developing a preferred alternative. It is his understanding that this preferred alternative has been forwarded to the EIR consultants. He inquired whether planning staff would continue to develop a preferred alternative plan.

Mr. Horwedyl said that planning staff will be reviewing the preferred plan and will continue to do so as part of the EIR process. He stated there are still discussions taking place about how the pedestrian circulation should work. As planning staff goes through the different facets of the plan, adjustments will be made to the plan. He stated that by no means is the plan completed. Planning staff and consultants will be working on the plan over the next year to make it ready for the San Jose City Council to adopt.

Mr. Bischoff said that the San Jose City Council endorsed a preferred alternative plan in January 2005 and that the consultants will be working toward a refinement of this plan. He indicated that there should not be an expectation that there will be a lot of changes made to the plan. If Morgan Hill is to provide comments on its preferred alternative and provide additional input, he felt that the City of San Jose might consider it as an alternative in the EIR.

Mr. Horwedyl stated that the task force would consider all information that would be part of the EIR process. However, he said that the San Jose City Council gave a lot of thought to their preferred alternative and that it would surprise him should the plan would change significantly.

School Board Member Thomas inquired as to the role of the task force following the completion of the EIR process.

Mr. Horwedyl responded that the task force will continue to work through the specific plan and the different implementation pieces such as the financing pieces of the plan (e.g., industrial development, development of a Mello Roos District, another assessment tool, phasing of improvements, active acquisition of a greenbelt plan, as a passive greenbelt plan, etc.). He said that there are still a lot of discussions to be undertaken.

Russ Danielson stated that he was pleased to see that the alternative uses the term “suburban school size” rather than “urban school size” in the small footprint. The idea of shared land/park backing up to schools and vise versa should be looked at carefully as it can be a concept that has danger involved in it.

Community Development Director Molloy Previsich inquired whether the EIR would analyze intermediate development of Coyote Valley.

Mr. Horwedyl indicated that an in point analysis would be conducted for full build out. They will address questions about phasing transportation improvements and other infrastructure in order to determine whether the right mitigations are included. He said that he does not have enough traffic analysis at this time to determine the infrastructure, circulation, phasing and timing. This information is to be gathered through the specific plan process.

Mayor Kennedy requested that the School District and Gavilan College representatives address their involvement in the process.

Dr. McKennan said that School District has been discussing the size/ownership of school land and whether the school will be designed as a single story facility, etc. She stated that no conclusions have been reached, but that the School District has shared their ideas with the City of San Jose and that progress has been made toward understanding each other's desires. She stated that it was found that a shared park concept would not work. As the process moves forward, it will be determined whether there would be conflicts. She said that it would be important to continue dialogues.

School Board Member Mandel stated that dialogue has been good and on going. He expressed concern with timing. He felt that it needs to be determined the number of children who would reside in Coyote Valley and then look at the implications (e.g., more schools versus less schools needed). It would be his goal to get basic assumptions settled such as the types, configuration and number of schools and how the schools would share parks. Once these are identified, they can be tweaked and included into the preferred plan. Given the timing of the notice of preparation, he felt that there is time to include a revised set of assumptions into the preferred plan.

Mr. Horwedyl confirmed that there is still time to include items into the build out of the plan. He said that the plan document will evolve and have will have a life of its own.

School Board Member Thomas said that a concern is that the School District is dealing with a finite area and that every acre makes a difference. Therefore, the allocations to the school district and college for other infrastructure will become critical in the overall picture. Therefore, it is the preferred alternative that one wants to review from the beginning.

Gavilan College President Kinsella indicated that he has identified a specific piece of property directly across from the IBM Business Park and that he would like to work with the City of San Jose toward a Memorandum of Understanding. He is working with the City of San Jose to develop athletic fields adjacent to the parcel. He stated that Gavilan College does not share the same safety issues associated with school children as most students are adults. He said that he has discussed joint facility(ies) parking and library projects. He said that it is Gavilan's intent to close the key points that cannot be discussed this evening and continue to move forward. There is one issue that poses a challenge, one that he has no control over, and that is the size of the footprint. He said that the education code is specific in its requirements. The education code will determine whether the site can be purchased. He said that there is still a lot of work that needs to be done, including site testing.

Council Member Sellers addressed traffic concerns. He noted that growth has occurred from individuals working in Silicon Valley and that 80% of the City's workforce go to other places, mainly to Silicon Valley. He indicated that the City understands commute patterns. This is a great community and that is the reason individuals chose to reside in Morgan Hill. He said that housing is less expensive in South County. In looking at traffic issues/patterns, he felt that the 80/20 split does not make sense. He felt that three of the four patterns show traffic will head south as this has been what has been seen over the past few decades. He felt that the plan was put into place and that the traffic numbers were derived to match the plan. He requested an explanation as to why Morgan Hill should feel comfortable that traffic would be heading north.

Mr. Horwedyl indicated that the 80/20 split came out of the Cisco EIR. He said that the information was based on the response to comments that came in on the EIR from the public. He said that there were a lot of comments on the 80/20 split and that the traffic assignment/distribution looked at where housing was and ran the numbers. It took 9 months to respond to comments, a substantial amount of time. They went back to look at the original assumptions to determine how real the numbers were. He indicated that the City of San Jose was sued five times over the EIR and that they won all law suits. One of the big issues of the lawsuits was that should the campus industrial development move forward, it would push a lot of housing to the south. He indicated that after reviewing the general plans of the number of homes to be constructed in surrounding cities, the 80/20 split is very close. He noted that even in this slow year, San Jose will be issuing 3,000 housing permits, noting that in good years, 5,000 housing permits are issued. When he looks south, he does not see a lot of housing being made available. New housing is being constructed, but not at the magnitude that is occurring to the north. He will be reviewing the numbers to determine whether these are still real numbers. He said that having a mixed housing industrial project would have a better transportation outcome.

Mr. Boyd said that a problem with the Cisco EIR is that City of San Jose used its own transit model. In this case, the City of San Jose will be using a different model in order to build better confidence in the numbers in the results to be achieved, using a VTA model that looks at the 14 county bay area. The model will take into account the general plans of regional areas.

Council Member Sellers felt that it was important to look at the numbers. It is also important to provide housing so that South County, Salinas and other areas will not be impacted.

Mr. Horwedyl said that during the litigation process, they reminded south county cities that they are building low density housing on farmland and that the workers in their communities cannot afford to purchase homes. He indicated that Monterey County just approved a large subdivision north of Salinas and that the housing does not support the farm workers. He said that San Jose would provide as much housing as possible.

School Board Member Thomas said that discussed was new housing and that it was her hope that the model would take into account existing housing.

Mr. Horwedyl said that there is new housing being constructed everywhere. There was a discussion about the impact of Coyote Valley to housing prices in Morgan Hill, Gilroy and other communities. He

said that this could be studied as part of the fiscal analysis, but could not guarantee that it would be studied. He said that at time of preparation of the analysis for Cisco, it was found that there were a lot of homes available for sale to the north and south with a vast majority of homes being to the north.

Mayor Kennedy said that even if you use an 80/20 assumption, 20% would create another bottleneck. He inquired how the Plan would address traffic congestion. Would there be an extension of light rail?

Mr. Horwedyl said that if there is nothing in the plan that addresses public transportation, one of the mitigation impacts he would identify as part of site impacts to Highway 101 would be congestion and what it would take to relieve congestion as part of the EIR. He said that San Jose City Council would need to determine what would be feasible to include in the project and what would not be feasible due to economics. There has been discussion by the San Jose City Council about the cost for the plan and the features to be included. Should Highway 101 widening be a cost to the development, it needs to be determined how much the Plan could bear.

Mr. Boyd said that San Jose is committed to producing a traffic model in advance of the EIR. He plans to run a transportation model in order to get a sense of the possible impacts. The data provided would assist in determining whether some of the mitigation measures to be identified can be incorporated.

Mr. Horwedyl said that to be studied is provision of Caltrain service into Coyote Valley, and how to design Santa Teresa in order to allow light rail to ultimately come to Coyote Valley. He indicated that VTA has indicated that they are not ready to bring light rail into Coyote Valley until it starts to develop.

Mayor Kennedy suggested that transportation staff work with South County agencies as they are also pushing to bring Caltrain and bus transit to South County. He felt that working together may result in bringing additional mass transit services to South County.

Mr. Horwedyl stated that the City of San Jose received money from the State to help fund Caltrain at time of the review of the Cisco project. A message that San Jose is trying to relay to South County communities is that they see their connection/relationships to communities to the south versus south San Francisco or Alameda County. He agreed that working together may result in bringing more transportation dollars to South County.

Council Member Tate expressed concern with the housing/job imbalance. He did not believe that affordable housing was addressed. He expressed concern with economics and whether it equates.

Mr. Horwedyl said that San Jose is unique in that it has less than 1 worker that lives in San Jose for the jobs that are available. Other cities in the county have 3-4 jobs per employed residents. He said that San Jose is trying to build out of this. He felt that a solution to address this would be to develop more industrial as being the best economical thing to do. However, San Jose continues to add several thousands of housing units into its general plan. He stated that the San Jose City Council understands the linkage of having available housing and keeping a balanced economy going. San Jose does not look at Coyote Valley as a microcosmic of control. He noted that south San Jose has a tremendous amount of housing and that residents work elsewhere (e.g., to the north).

San Jose Council Member Williams indicated that at the request of Mayor Kennedy, San Jose staff came to speak to the Coyote Stakeholders and the City of Morgan Hill about the Coyote Valley EIR. He said that there are phases that San Jose must go through as identified in the visioning process and by the San Jose City Council. He said that questions raised will be answered, but that it will take time. The EIR will address environmental, transportation, and housing projection issues. He said that San Jose will make sure that Coyote Valley is a viable project and that the Plan will address everyone's concerns. He said that the EIR document will address the concerns raised. He stated that the City of San Jose wants individuals to raise concerns in order to discuss and address them. He indicated that the City of San Jose is willing to come to South County to try and address concerns as the more you talk about the concerns, solutions tend to evolve and concerns addressed. He said that the City of San Jose is committed and wants to make sure that Coyote Valley is a place where people want to be. San Jose wants to address all environmental issues and provide mitigations to impacts. He said that flexibility needs to be incorporated into the Plan so that it is a moving/living plan. He stated that Mayor Gonzales and the City of San Jose is committed to making sure that everyone moves together. Everyone will need to give and take a little in the development of Coyote Valley. He acknowledged that transportation and schools are important. He and Mayor Gonzales have reviewed the recommendations for phasing and that they would be releasing their views of what it should be. To be reviewed is the cost of the infrastructure, phasing of development and how best to move forward with development of Coyote Valley. He felt that phasing may help to address some of the issues raised this evening regarding traffic, housing, etc. He said that San Jose continues to look at ways to generate housing, including changes to land use so that they can address housing and industrial issues. They are trying to be creative in order to meet the needs. San Jose will be generating housing and will meet the requirements for housing. He agreed that the job housing balance needs to be changed. He felt that the City of San Jose needs to provide better services to its residents and that if they can provide more jobs, they would be able to do so. He stated that the City of San Jose is willing to work cooperatively with the City of Morgan Hill and the Coyote Valley stakeholders to help address issues and concerns.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Santa Clara Valley Water District Board Member Rosemary Kamei stated that the City of San Jose staff is working with the Water District to address flood control and water supply issues. She said that the Water District has many issues related to high ground water and that they are working toward a plan to address this area. She said that the Water District Board of Directors did have an opportunity to take a look at some preliminary information and that the Board is interested in working with the City of San Jose as well as the City of Morgan Hill to look at the possibility of a new zone benefit for water rates and other issues. She said that long range planning needs to occur in looking at water supply and other issues within this area. She indicated that the City of San Jose is well aware of the Water District's concerns in this particular area.

Mayor Kennedy said that there is a serious concern about active water sources in Coyote Valley and that this is an issue that needs to be addressed. Regarding flood control, he noted that Fisher Creek begins in Morgan Hill, on Cochrane Road. He felt that the City of Morgan Hill needs to work with the City of San Jose so that the detention ponds pumped into Fisher Creek do not create flooding.

School Board Member Thomas stated that air quality is a major concern and that she does not know how it can be mitigated as it is a strong concern to south valley residents. She also expressed concern with the quality and adequacy of water, especially with the development of high industrial uses. She said that fluoride in the water has contaminated the wells in Morgan Hill. She said that the City needs to make sure that it has an adequate water supply for its citizens.

Mayor Kennedy also addressed air quality, especially with Calpine. He said that there is a reliance on automobiles and that the development of Coyote Valley will exacerbate an existing problem. He referred to the packet handed out earlier. He stated that he sent a letter to Mayor Gonzales in early 2005 and that he still does not have answers to his questions. He referred to page 8 of the letter relating to housing 1a and 1b.

Mr. Horwedyl said that a preferred plan has been identified and that it will allow San Jose to conduct projection of jobs. He said that campus industrial is subjective with 50,000 jobs being proposed. He said the secondary jobs piece would be a part of the EIR with projections and assumptions being made. He stated that over the next several months, more information would be shared. He indicated that this is work in progress with initial numbers. Through the EIR process, San Jose would refine the numbers. He said that it is anticipated that within the next four months, additional information would be made available.

San Jose Council Member Williams said that four months is a best guesstimate regarding being able to provide projections.

San Jose staff stated that as the process proceeds, refinements to numbers will be made. Staff will need to determine the primary jobs (e.g., retail and government job; jobs that bring income into the community, etc.). He stated that primary and secondary jobs will need to be determined.

Mr. Horwedyl said that housing 1b addresses the 80/20 split analysis. Item c identifies triggers for phasing and that item d talks about economics. He indicated that CEQA requires that physical impacts be reviewed and not social or economic impacts unless the social/economic impacts have a physical connection. He said that an economist is looking at a variety of economic issues associated with the plan. The economic analysis is being conducted, but would not necessarily be a part of the EIR. The EIR will look at economic pieces, but that he could not guarantee that it would look at how it would affect housing prices in Morgan Hill. He acknowledged that housing prices are going up and what is being done in Coyote Valley would not change this.

Mayor Kennedy inquired whether there was anything that could be done to increase housing affordability?

Mr. Horwedyl did not expect the 80/20 split to change. He noted that Coyote Valley is not in a redevelopment agency, and therefore, there is not statutory requirement for affordable housing. He said that the San Jose City Council included a 20% affordable housing requirement in their 16 guiding principles.

City of San Jose staff said that their Council has directed that a balanced community be planned. It was stated that staff has not conducted a study on the feasibility of affordability. Policies would be developed in order to address housing affordability. He stated that there is a difference between affordability and inclusionary housing.

Council Member Sellers appreciated the fact that the City of San Jose is considering a 20% affordable housing requirement as one of the guiding principles. He felt that there are creative ways to provide different housing types. It is his hope that a greater percentage of affordable housing would be provided.

School Board Member Thomas indicated that the School District was under the impression that the proposed affordable housing units would be subsidized units.

Mr. Horwedyl stated that 5,000 housing units would be affordable, and that they would not be subsidized housing units. These will be income restrictive housing units and that you would not be able to tell the difference between an affordable and a market rate housing unit. He indicated that the Tacci development would be a high density development and would be an affordable housing project.

City Manager Tewes noted that it was indicated that the numbers would be revisited. He inquired whether the 80/20 split is an assumption built into the model or is it an outcome of the model.

Mr. Horwedyl responded that the numbers are a result of the model.

San Jose staff said that the 80/20 split is a number that was set based on the Cisco project. He stated that a model run was conducted for this project.

Mike Mena said that there are several things to keep in mind regarding the 80/20 split. It is not being stated that trips are not coming from the south. It is referring to how many homes are located south of Coyote Valley versus how many homes are located north of Coyote Valley. This determines how many trips would be attached to the activity. He said that with the existing plan, there are fewer homes south of Coyote Valley than similar distances north of Coyote Valley. There is also more congestion coming south of Coyote Valley than there is from the north of Coyote Valley in peak hours. He said that housing is an assumption that is an input to the model. The outcome of the distribution of trips associated with this plan is the results. A question that needs to be asked is whether the number of trips coming from the south would be different with or without jobs/housing in Coyote Valley. He stated that the number of commuters coming north would be identical with or without development in Coyote Valley. He said that the traffic model takes into account income groups. Therefore, there is a different distribution model for each class of household incomes and jobs.

Mayor Kennedy felt that the 80/20 split would change based on more affordable housing being made available south of Coyote Valley. It was his belief that affordable housing to the south would increase traffic.

Council Member Sellers said that if communities to the south allow housing stocks to increase, it will turn Morgan Hill into one big parking lot. As long as the numbers hold, the 80/20 split would be reasonable. Once communities to the south allow the construction of additional affordable housing, he felt the numbers would change.

Mr. Mena said that Mr. Horwedyl is stuck with CEQA law and that he has to look at existing adopted general plans for other communities. The San Jose City Council will not likely give him the latitude to change the assumptions in the EIR to take speculative considerations into account or over estimate the impacts to the south.

Community Development Director Molloy Previsich noted that this is a plan for a new city. She recommended that an increase in housing percentages in communities to the south be analyzed. She felt that there is a regional component that needs to be analyzed as part of good planning.

Mr. Horwedyl said that ABAG and MTC looks at where the jobs and housing growth will occur. The numbers San Jose staff received from ABAG and MTC indicate that Coyote Valley, downtown San Jose and the Evergreen area is where development would occur (San Jose city limits). At the regional level, the same pressures will still exist.

Community Development Director Molloy Previsich said that because San Jose will not be able to accommodate development it will place pressure on other cities to accommodate development.

Mr. Mena said that Mr. Horwedyl is in a tough spot, and that he will have to consider various alternatives to the project that tend to lessen some of the impacts.

Mayor Kennedy said that it is Morgan Hill's hope that the City of San Jose would work with the City and the stakeholders through the planning process. It is the hope that the City of San Jose will continue to work with the stakeholders on real alternatives.

San Jose Council Member Williams said the City of San Jose is open to discuss issues. He felt that pressures would still exist without development in Coyote Valley. Regionally, the area will grow as this is a place where individuals want to relocate. The City of San Jose needs to look at its zoning and land uses. Other cities will look at their land uses and decide whether they want to accommodate growth. The City of San Jose is basing its development projections on land use and needs; preparing for the future. He felt that the City of San Jose is in a dilemma. The City of San Jose is trying to rectify and improve the quality of life for its community. This will result in the need to change job/housing numbers. The City of San Jose wants to work with its legal documents. They also want to work together, noting that San Jose has a direction where it wants to go. The City of San Jose wants to work with the Plan and would like to address concerns, but that they need to look at the EIR. The Plan needs to come close to a place where everyone can exist together.

Mayor Kennedy said that the 80/20 split has been a source of concern to the stakeholders.

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San Jose Council Member Williams asked what the City of San Jose can do such that the stakeholders in attendance can reach a comfort level that the numbers are real or close.

Community Development Director Molloy Previsich said that it is staff's concern that the regional assumptions are updated as much as possible. She felt that the model should reflect the most recent assumptions for all counties. There may be another model that would be worth analyzing.

Mr. Horwedyl said that the City of San Jose reviewed several models with the Cisco plan and made sure that they had the most recent data possible. He stated that the notice of preparation is an important process as this is the snapshot that is used to analyze the plan. The City of San Jose will continue to monitor to make sure that the model is the true model, using the VTA model. He said that the City of San Jose would like to conduct focus topic sessions such as transportation focus/analysis.

City Manager Tewes said that the City of Morgan Hill has asked to review information, but has not been provided with information.

Mr. Horwedyl said that the City of San Jose would prefer to give everyone pieces of the technical information, but that he needs to work with the attorney to figure out how/when to provide the information.

Mr. Bischoff suggested that changes have occurred. He noted that it has been stated that ABAG provides regional numbers and that the numbers state that Santa Clara County will be adding more jobs than housing units. If this is the case, individuals who will be working in Coyote Valley and live outside the area. He requested a reassessment of the 80/20 split. He stated that he would like to have the opportunity to dialogue about the assumptions.

Mayor Kennedy suggested that stakeholders be allowed to work with the consultant or San Jose City staff to better understand the assumptions.

Mr. Horwedyl said that school sites will be designated in the Plan and that they are working on the financing piece of this. He indicated that school districts are wards of the state as it relates to property acquisitions. It is their goal to work with the school district.

School Board Member Thomas said that the School District is not in the same position as Gavilan College; indicating that the School District does not want to burden existing residents with the financing of a new school.

Regarding public facilities impacts, Mr. Horwedyl stated that the EIR would be assessing the impacts of the county road network and identifying mitigations. Neighborhood parks will be built as part of the project. The habitat conservation plan will include open space land. The Task force will grapple with a greenbelt active/passive strategy. He stated that the EIR will not address development agreements. He stated that the existing general plan and zoning would remain in place as part of this specific plan.

San Jose Council Member Williams indicated that Santa Clara County Board of Supervisor Don Gage and he have been meeting with property owners. He indicated that Supervisor Gage is willing to listen to recommendations and proposals. He said that it is Supervisor Gage's view that the County has no interest in changing the greenbelt. He stated that this work is going on in order to find out how best to characterize the greenbelt. He said that there are concerns about access, trails and parks as amenities to a greenbelt. Supervisor Gage would like the property owners to come forward with a plan.

Council Member Tate excused himself from the remainder of the meeting.

Mr. Horwedyl said that air quality will be a difficult impact to mitigate. He indicated that Calpine is located in Coyote Valley and that an air quality model would be prepared. The air quality analysis prepared as part of Cisco development included Monterey County's air regulations. Regarding the Bay checkered butterfly, he stated that he is working on a habitat conservation plan on this issue. He stated that a number of technical meetings have been held. He said that all interested parties would be invited to attend future technical meetings. Regarding the San Martin Airport, he said that CEQA requires that they look at secondary impacts associated with this activity and its use. He noted that the County controls this facility and its operation/expansion. He would look at today's activities and how much more activity there would be. To be looked at are healthcare, religious institutions, schools and their availability. He noted that a hospital is located in the City limits and that Santa Teresa Kaiser will be utilized.

It was noted that the hospital in Morgan Hill is not open.

Council Member Sellers indicated that it is a Council goal to have the hospital reopened with capacity.

Mr. Horwedyl said that he does not believe that there is a plan to build an emergency hospital in Coyote Valley. He agreed to address the demand and distance to access a hospital(s).

Mr. Bischoff summarized the follow up action items as follows: the preferred alternative model to be modified to address school district concerns; San Jose staff agreed to look at the 80/20 split and the traffic assumption model; San Jose staff may consider the affordability of housing as part of the financial analysis; San Jose staff to prepare a traffic model in advance of the EIR to determine if the plans need to be modified; Mayor Kennedy asked San Jose staff to work with Morgan Hill regarding mass transit service to south county; and Mayor Gonzales and Council Member Williams will discuss phasing of development with the task force.

Mr. Horwedyl stated that the City of San Jose would continue to work with the School District to try and resolve the issues about school sizes, numbers and trip generations. He indicated that San Jose would like to work with Morgan Hill on how to implement a greenbelt.

Mayor Kennedy indicated that staff will prepare notes and comments; providing this information to the City of San Jose and the Coyote Stakeholders. He thanked the City of San Jose staff, Council Member Williams, and the consultants for coming to Morgan Hill and attending this workshop. He felt that this was a positive step that afforded open dialogue.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the meeting at 9:35 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK**

**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES – MAY 4, 2005**

**CALL TO ORDER**

Mayor Kennedy called the special meeting to order at 6:00 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members Carr, Grzan, Sellers, Tate and Mayor Kennedy

**DECLARATION OF POSTING OF AGENDA**

Deputy City Clerk Tewes certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***City Council Action***

**CLOSED SESSIONS:**

Acting City Attorney McClure announced the below listed closed session item:

<b>1.</b>	
<b><u>CONFERENCE WITH LABOR NEGOTIATOR:</u></b>	
Authority:	Government Code Section 54957.6
Agency Negotiators:	City Manager; Human Resources Director
Employee Organization:	AFSCME Local 101 Morgan Hill Community Service Officers Association

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor Kennedy opened the Closed Session item to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor Kennedy adjourned the meeting to Closed Session at 6:03 p.m.

**RECONVENE**

Mayor Kennedy reconvened the meeting at 7:04 p.m.

**CLOSED SESSION ANNOUNCEMENT**

Acting City Attorney McClure announced that no reportable action was taken in closed session.

**SILENT INVOCATION**

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## **PUBLIC COMMENT**

Mayor Kennedy opened the floor to public comment for items not listed on this evening's agenda.

Rosanne Macek, Morgan Hill Community Librarian, announced that Measure A passed with 72% of the vote. She stated that this measure provides some funding for the Santa Clara County Library to which Morgan Hill is a part. She stated that the success of the measure was due to the efforts of many hardworking volunteer groups. She thanked Mayor Pro Tempore Tate for co-chairing the countywide campaign. She acknowledged Bert Berson, Library Commissioner, Carol O'Hare, president of the Friends of the Library who co-chaired the local campaign group, and Vickie Reader who coordinated over 150 individuals who made phone calls to remind voters to return their ballot measures via mail. She said that the passage of the measure will result in the continuation of library services in Morgan Hill at the current level, and that the library will not have to institute some of the cutbacks previously being looked at.

No further comments were offered.

## ***City Council Action***

### **CONSENT CALENDAR:**

Mayor Kennedy indicated that there is a speaker card from an individual wishing to address the Council under Consent Calendar item 1.

City Manager Tewes stated that it is staff's recommendation that the City Council set a date and time for a hearing on an appeal of a Measure C application by Mr. Howard Vierra. Staff is recommending that the hearing be set for Wednesday, June 8, 2005 at 7:00 p.m. He informed the Council that he has personally spoken with Bruce Tichinin, attorney for Mr. Vierra. Mr. Tichinin has agreed that this is an appropriate date and time and that he would be prepared to present written material in advance. He has spoken with Mr. McClure who will be making a presentation on the part of staff's position. He has also spoken with Kirsten Powell who has indicated that this date and time works for her as well.

Mayor Kennedy opened the floor to public comment.

Bruce Tichinin stated that he was pleased that the Council has finally set this matter for rehearing because it opens the possibility that the Council's substantive decision on the appeal would be the one required by General Plan law that would set in motion further applications for the land use approvals involved and the likely generation of profits that would eliminate Mr. Vierra's \$1.5 million claim against the City. He noted that one of the implied stipulations to the elimination of their claim is that there was a violation of due process in the initial process of the appeal. In order to assure this result, he requested City Manager Tewes recuse himself from the rehearing process, including refraining in the selection and retention of new counsel to advise the City Council. He felt that Mr. Tewes failed to demonstrate personal integrity in the exercise of his public office to recuse himself and that the Council failed to demonstrate its independence by not ordering Mr. Tewes to recuse himself. Therefore, his

claim of due process will not be satisfied. He reiterated his hope that the Council's decision, on appeal, will eliminate his (Vierra's) claim for loss profits and mute the due process issues.

No further comments were offered.

**Action:** *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1 and 2 as follows:*

1. **SET PUBLIC HEARING REGARDING APPEAL APPLICATION, AP-03-07: WEST MAIN-VIERRA**

**Action:** *Set June 8, 2005 at 7:00 P.M. as the Date and Time to Hear the Vierra Appeal, a Request for Residential Development Control System (Measure P) Building Allocations for Fiscal Year 2005-2006. The Project is a Five Unit Single Family Residential Development, Plus One Existing Dwelling Unit, on A 4.54 Acre Parcel Located on a Westerly Extension of Via Grande and Southerly Extension of John Telfer Drive, South of West Main Avenue. (APN 773-06-009).*

2. **APPROVE CHANGE ORDER FOR TENNANT/HIGHWAY 101 SOUTHBOUND RAMPS SIGNAL INSTALLATION PROJECT**

**Action:** *Approved Change Order in the Amount of \$50,000 to Replace Existing Asbestos Cement Pipe Waterline with Ductile Iron Pipe.*

**ADJOURN TO CITY COUNCIL REGULAR MEETING AGENDA**

The City Council adjourned the meeting at 7:50 p.m. until the conclusion of the regular City Council/special Redevelopment Agency meeting agenda where they would reconvene to closed session.

**RECONVENCE**

Mayor Kennedy reconvened the meeting at 9:57 p.m.

**RECONVENE TO CLOSED SESSION**

Mayor Kennedy adjourned the meeting to Closed Session at 9:58 p.m.

**RECONVENE**

Mayor Kennedy reconvened the meeting at 10:20 pm.

**CLOSED SESSION ANNOUNCEMENT**

Mayor Kennedy announced that no reportable action was taken in closed session.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the meeting at 10:21 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK**



## **CITY COUNCIL & REDEVELOPMENT**

### **AGENCY STAFF REPORT**

**MEETING DATE: May 18, 2005**

## **CITY MANAGER'S PROPOSED FISCAL YEAR 2005/06 BUDGET AND CAPITAL IMPROVEMENT PROGRAM**

### **RECOMMENDED ACTIONS:**

- 1) Receive the City Manager's Proposed 2005/06 Budget & Capital Improvement Program,
- 2) Set May 20, 2005 as a budget workshop, CIP workshop, and workplan workshop
- 3) Set June 15, 2005 as a Public Hearing on the Budget; and
- 4) Set June 22, 2005 for Adoption of the 2005/06 Budget.

### **EXECUTIVE SUMMARY:**

City staff has completed the City Manager's Proposed 2005/06 Budget and Capital Improvement Program (CIP) for the years 2005/06 through 2009/10. The Budget and CIP are combined within one document. The CIP is located as an appendix at the back of the Budget. The Budget document is provided under separate cover, and will be distributed prior to the City Council meeting. The City Council previously agreed to hold a Budget workshop on Friday, May 20 at 8:30 a.m. to 12:30 p.m. Staff recommends that a CIP workshop and review of boards, commissions and committee workplans be held from 1:30 p.m. to 5:00 p.m. The Council has a Public Hearing on the Budget scheduled for Wednesday, June 15 at 7:00 p.m., with final adoption of the Budget to be scheduled for the meeting of Wednesday, June 22.

**FISCAL IMPACT:** The fiscal impact is discussed within the City Manager's budget message, which is located at the front of the Budget document.

Agenda Item # 13

Prepared/Approved  
By:

Finance Director

Submitted By:

City Manager

**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR CITY COUNCIL  
AND SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES – MAY 4, 2005**

**CALL TO ORDER**

Mayor/Chairman Kennedy called the special meeting to order at 6:00 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Grzan, Sellers, Tate and Mayor/Chairman Kennedy

**DECLARATION OF POSTING OF AGENDA**

Deputy City Clerk/Agency Secretary Tewes certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***City Council and Redevelopment Agency Action***

**CLOSED SESSIONS:**

Acting City Attorney/Agency Counsel McClure announced the below listed closed session items:

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	4

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:02 p.m.

**RECONVENE**

Mayor/Chairman Kennedy reconvened the meeting at 7:04 p.m.

**CLOSED SESSION ANNOUNCEMENT**

Acting City Attorney/Agency Counsel McClure announced that no reportable action was taken in closed session.

## **SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **RECOGNITIONS**

Mayor Kennedy presented Certificates of Recognition to the organizations and agencies that contributed to the construction of the Jasmine Square Playground. Accepting the certificates were Larry Drury of Go Kids; and Holly Martindale of Home Depot. Not in attendance to receive recognition was Whitney Hampton of Kaboom.

## **PROCLAMATIONS**

Mayor Kennedy presented a proclamation to Mary Jane and Patti, advice nurses with Kaiser Permanente Medical Group South Bay Regional Appointment & Advice Call Center declaring May 6 thru May 12, 2005 as *National Nurses Week*.

Mayor Kennedy presented a proclamation to Deputy Director of Public Works Mori Struve, declaring May 15 thru May 21 as *National Public Works Week*.

Mayor Kennedy presented a proclamation to Deputy Director of Public Works Karl Bjarke declaring May 15 thru May 21 as *Bike to Work Week*.

Mayor Kennedy presented a proclamation to Chief of Police Cummings, Sergeant Mark Brazeal, Officer Greg Dini and Officer David Ray declaring May 15 thru May 21 as *National Police Week*.

Mayor Kennedy presented a proclamation to Chief of Police Cumming and Lead Dispatcher Paula Rodriguez declaring April 10 thru April 16 as *National Telecommunicators Week*.

## **PRESENTATIONS**

Linda Roma with the American Cancer Society was not in attendance to present her report on the upcoming Relay for Life scheduled for May 21, 2005.

## **INVITATION**

Recreation Supervisor Therese Lugger and Nancy Domnauer, invited the City Council and the community to the sixth annual Art a La Cart & Children's Fair scheduled for May 14, 2005 at 11:00 a.m.

## **CITY COUNCIL REPORT**

Mayor Kennedy indicated that he is an alternate Board Member to the Valley Transportation Authority (VTA). He stated that recently, the City for Morgan Hill received a presentation from VTA staff on

their long range capital improvement program (CIP). He said that the Council discussed the CIP and a series of recommendations. He stated that a letter was sent to Carolyn Gonot, Chief Development Officer of the VTA. He read the letter into the record which stated that under the expenditure priorities, the proposed VTA program relies on the premise that revenues from a new permanent ½ cent sales tax would become available in April 2007. This would allow delivery of all CIP projects in the 2000 Measure A program. Under this scenario, the BART expansion through San Jose/Santa Clara is considered a top priority and would be completed in 2015. Other projects in the Measure A program that benefit the more rural portions of the County such as South County Caltrain service upgrades, Caltrain electrification, and zero emission buses would not occur until the later half of the 30 year expenditure program. He stated that the recent public opinion survey on transportation issues and the sales tax increase reveals that South County voters value Caltrain equally to BART. While the City of Morgan Hill supports the goal of bringing BART into Santa Clara, it does not want to see the BART extension constructed at the expense of other transit projects in the transit capital expenditure plan or the VTP 2030 Plan. It was felt that cities receiving enhanced benefits from BART should provide a financial contribution. The portion of BART from Alum Rock to Santa Clara is planned to run underground. It is felt that the city or cities advocating or benefiting from an enhanced configuration should develop a local funding mechanism to pay for the gap between the most cost effective approach and the selected approach. Further, that this principal should be applied for any situations where the selected approach is not the most cost effective. The remainder of the cities and the County should not forgo transportation improvements that would benefit their residence at the expense of providing a higher cost benefits to residents in another city. He said that it is felt that VTA should have a backup plan in the event that the permanent ½ cent sales tax fails. The public needs to be made aware of the consequences of failing to pass the sales tax measure. It is recommended that the expenditure plan emphasis the need for double tracking to accommodate reverse commute service as part of South County Caltrain service upgrade. VTA should continue to work with the Union Pacific Railroad on double tracking and reverse commute strategies and that the timing of double tracking through the City of Morgan Hill should be moved up in the overall schedule. He indicated that the letter was sent to the VTA Board of Directors and to VTA staff.

#### **CITY COUNCIL SUB-COMMITTEE REPORT**

None

#### **CITY MANAGER REPORT**

City Manager Tewes reported a correction on Consent Calendar, item 3, page 30, contracts for review of the Coyote Valley Specific Plan. He stated that the contract with Roger Beers should be revised to a not to exceed \$30,000 amount. He requested that the approval of the Consent Calendar reflect this correction.

#### **CITY ATTORNEY REPORT**

Acting City Attorney McClure stated that he does not have a report to present this evening.

## **OTHER REPORTS**

Mayor Pro Tempore Tate announced that the annual Relay for Life is scheduled for Saturday, May 21, 2005. He indicated that Relay for Life is a 24-hour walk moved from Community Park to the Oakwood Academy School. He indicated that teams are recruited and that all members in the team raise money from the public for the American Cancer Society for cancer research. He said that this event is a wonderful/moving experience to be a part of. If one cannot participate, he encouraged the sponsorship of a Relay for Life walker.

## **PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

Rosanne Macek, Morgan Hill Community Librarian, announced that Measure A passed with 72% of the vote. This measure provides some funding for the Santa Clara County Library to which Morgan Hill is a part. She stated that the success of the measure was due to many hardworking volunteer groups. She thanked Mayor Pro Tempore Tate for co-chairing the countywide campaign. She acknowledged Burt Berson, Library Commissioner, Carol O'Hare, president of the Friends of the Library who co-chaired the local campaign group, and Vickie Reader who coordinated over 150 individuals who made phone calls to remind voters to get their ballot measures mailed in. Passage of the measure will result in the continuation of library services in Morgan Hill at the current level and not have to institute some of the cutbacks that were being looked at.

No further comments were offered.

## ***City Council Action***

### **CONSENT CALENDAR:**

Council Member Grzan requested that item 2 be removed from the Consent Calendar.

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1 and 3-11 as follows:*

1.        **BI-ANNUAL VACANCY SURVEY**

**Action:** **Established** the Bi-Annual Vacancy Rate for April 2005 as Recommended by the Planning Commission.

3.        **ASSISTANCE WITH REVIEW OF THE COYOTE VALLEY SPECIFIC PLAN**

**Action:** 1) **Authorized** the City Manager to Execute the Agreement between the City of Morgan Hill and Fehr and Peers, Transportation Consultants, Subject to Review and Approval by the City Attorney; 2) **Authorized** the City Manager to Execute the Agreement between the City of Morgan Hill and the Law Office of Roger Beers, Subject to Review and Approval by the City

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Attorney; and 3) **Appropriated** ~~\$50,000~~ **\$30,000** within the General Plan Update Fund for these Agreements (amended contract amount as recommended by City Manager).

4. **MONTEREY UNDERGROUND UTILITIES DISTRICT**

**Action: Directed** Staff to Notice the Required Public Hearing to be held on June 1, 2005 for the Formation of an Underground Utility District along Monterey Road between Dunne Avenue and Cosmo Avenue, per City of Morgan Hill Municipal Code, Chapter 12.12.

5. **SECOND AMENDMENT TO COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE AGREEMENT**

**Action: Directed** City Manager to Execute the Agreement with the County, Subject to Review and Approval by the City Attorney.

6. **2004 ANNUAL CONSUMER CONFIDENCE REPORT REGARDING WATER QUALITY**

**Action: Information Only.**

7. **APPROVAL OF WELL ACCESS AGREEMENT WITH SANTA CLARA VALLEY WATER DISTRICT (SCVWD) FOR WELLS AT MISSION RANCH DEVELOPMENT (APN: 728-32-008)**

**Action: 1) Approved** Well Access Agreement with the SCVWD at the Mission Ranch Development; and 2) **Authorized** the City Manager to Execute Agreement; Subject to Review and Approval by the City Attorney.

8. **REVISION TO BURROWING OWL PLAN**

**Action: Approved** the Plan Revision.

9. **AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF JORGENSEN, SIEGEL, McCLURE & FLEGEL, LLP**

**Action: Authorized** the City Manager to Execute an Amended Agreement with the Law Firm of Jorgenson, Siegel, McClure & Flegel, LLP.

10. **ADOPT ORDINANCE NO. 1722, NEW SERIES**

**Action: Waived** the Reading, and **Adopted** Ordinance No. 1722, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING CHAPTER 13.04 (WATER SYSTEM) OF TITLE 13 (PUBLIC SERVICES) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING WATER METERS FOR MULTI-UNIT DWELLINGS.**

11. **SPECIAL CITY COUNCIL MEETING MINUTES OF APRIL 20, 2005**

**Action: Approved** the Minutes as Written.

## **2. AUTO DEALERSHIP STRATEGY**

Director of Business Assistance and Housing Services Toy indicated that in March 2005, the Council adopted a policy that stated that by April 2005, the Community & Economic Development Subcommittee will evaluate the adopted auto dealership strategy and recommend revisions, if appropriate, and suggest a strategy for implementation. He informed the Council that the subcommittee met several times to come up with revisions to the strategy. The recommendation before the Council this evening is that the Council direct staff to meet with the neighborhood and the property owners to receive their feedback and discuss issues further. He indicated that meetings have been held with the property owners and neighborhood residents. He stated that the subcommittee felt that additional meetings were warranted to discuss additional issues and to receive additional feedback. The subcommittee would then be able to put together a recommendation to the Council. He said that the area residents still have concerns regarding impacts on their residences and their roads should Walnut Grove be extended. He stated that the residents indicated that they were open to discuss issues, but expressed concern about additional auto dealerships in this area. It is staff's hope to clarify some of the issues and talk about issues in detail at the meetings (e.g., buffer zones, lighting, road alignments, acceptable uses, buffer zones that would include landscaped areas and/or, housing, etc.). It is not known how many meetings would be held with the property owners and residents in the neighborhood. It is staff's belief that residents are willing to discuss the issues. However, he does not know if they are willing to compromise or reach a solution. He said that Walnut Grove heads north and then east toward the dealership. Staff is recommending that developed properties be excluded from the PUD that would include Kentucky Fried Chicken, Chevron, Scrambl'z Diner and the vacant parcel behind it. The recommendation is based on the fact that these parcels are fully developed and that the inclusion of hodgepodge development would make it complex to build a PUD. He indicated that the vacant property behind Scrambl'z would develop as highway commercial.

Council Member Sellers, the Community and Economic Development Subcommittee Chair, stated that the subcommittee felt that the City received significant community input. Although, informal, the subcommittee believed it received specific direction from the Council. The subcommittee felt that it was sufficient enough to warrant an agreement. The subcommittee had a general sense of the concerns of the community and a general sense of what was felt would be an appropriate development in this area. The subcommittee reviewed a variety of approaches which included the Council or subcommittee getting involved, but that it was felt that it would be appropriate to go back to the community to identify agreements and provide significant written assurances to the community on the direction the City would be taking and to provide significant assurances to the business community and property owners on the direction. He stated that the subcommittee felt that this was the next step to take. Once this step has been taken, the subcommittee anticipates returning to the Council with a report.

Council Member Grzan indicated that he has met with the leadership of this community and got a sense that they did not want to see this matter return. He stated that it was his belief that the issue was resolved at one point. He felt that returning to the residents may anger the residents and suggest that the Council did not like their response. He stated that he was somewhat leery about returning to the residents and stir feelings again. He stated that he would be willing to approve the recommended action at this time based on the recommendation of the subcommittee, but expressed concerns.

Council Member Carr felt that the PUD needs to be talked about as there is a lot of miss information and miss representations out there. He felt that this information needs to be clarified. One of the steps to be taken is to clarify the area that is being discussed, should the Council approve the recommended action. The subcommittee is recommending that properties be pulled out of the PUD that are already developed and narrow the size of the PUD/property being discussed. This area would be clearly defined and would be less frightening as discussions take place.

Council Member Sellers said that should nothing were to happen, the community in this neighborhood would remain at risk. They would have no assurances of where future development might occur. He said that there are significant issues that will be hanging over their heads. He felt that the Council needs to get these issues resolved. The City needs to explain what will or will not develop in the PUD. It is his hope that the subcommittee's report will answer a lot of the questions and that once the PUD has gone through the Council process, the questions will be resolved once and for all as a goal.

Mayor Kennedy stated that it was his understanding that the Planning Commission subcommittee working on this item has finished their work.

Council Member Sellers said that the Planning Commission subcommittee had undertaken the initial work. However, things were placed on hold last fall for a variety of reasons. He said that there were some areas of impasse. There was also a municipal election held and that several individuals did not believe that it made sense to move forward. The subcommittee felt that a change in circumstances and a change in direction from the Council and further assurances of where the City will want to go were significant developments. He said that the subcommittee believes that it makes sense to have staff wrap up the matter at this time.

Mayor Kennedy felt that closure was needed with respect to the Planning Commission subcommittee.

**Action:** *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0): 1) **Directed** Staff to Meet with the Neighborhood Residents and Property Owners, as needed, in the Walnut Grove Area to Discuss Issues and to Report back to the Council Community and Economic Development Committee Regarding the Discussions; and 2) **Directed** Staff to Process a Planned Unit Development (PUD) Amendment to Remove the Existing Developed Properties South of Walnut Grove Drive from the Existing PUD Zoning.*

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:** *On a motion by Mayor Pro Tempore/Vice-chairman Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Items 12 and 13 as follows:*

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12. **INVESTMENT POLICY UPDATE**

**Action:** 1) **Adopted** the Updated Investment Policy for the City; and 2) **Adopted** the Updated Investment Policy for the Redevelopment Agency.

13. **JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF APRIL 20, 2005**

**Action:** **Approved** the Minutes as Written.

## ***City Council Action***

### **PUBLIC HEARINGS:**

14. **ZONING AMENDMENT APPLICATION, ZAA-89-16: CHURCH-LaBRUCHERIE – Ordinance No. 1723, New Series**

Director of Community Development Molloy-Previsich presented the staff report for the Planned Unit Development (PUD) district approved in 1989. The PUD established a precise development plan for an 8 building, 70,000 square foot industrial complex. She indicated that the PUD did not specify allowable uses. Currently, the uses are those allowed in the light industrial (ML) zoning district. She stated that only the two lots facing Vineyard Boulevard have been developed with 9,000 square foot buildings on each parcel. The other six parcels remain vacant. She said that in order to better market the project; the property owner is requesting amendment to the PUD to identify permitted and conditional uses. She clarified that the proposed ordinance would allow as principal permitted uses those listed in the ML district in addition to other specified uses. She informed the Council that on a 3-2 vote, the Planning Commission recommends Council approval. She stated that the dissenting Commissioners expressed concerns about having trade/business schools and commercial athletic facilities as permitted uses. These Commissioners felt that these uses should be conditionally permitted uses. She recommended that the Council introduce the ordinance.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:** On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1723, New Series.

**Action:** On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1723, New Series, by Title Only, as follows: ***AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 619, NEW SERIES, AND ORDINANCE NO. 955, NEW SERIES, ESTABLISHING A LIST OF PERMITTED AND CONDITIONAL USES ON A 4.8 ACRE INDUSTRIAL PLANNED UNIT DEVELOPMENT ON THE WEST SIDE OF VINEYARD BOULEVARD, NORTH OF VINEYARD COURT. (APN 817-02-055 thru 062), by the following roll call vote:***

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*AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

**15. COMMUNITY DEVELOPMENT PROCESSING FEE ADJUSTMENTS – Resolution No. 5902**

Director of Finance Dilles indicated that in May 2002, the City's consultant, Maximus, made a presentation to the Council and presented it with a study of fees that the City was charging. Maximus compared the fees in affect at the time to the cost of providing services associated with the fees. Maximus determined that some of the City's fees were significantly too low based on the cost it was incurring, particularly in the community development processing fees. At that time, working with the consultant, staff proposed to the Council that fee increases be limited to no more than 20%. He indicated that the Council approved the increased, limiting the increase to 20%. He stated that staff met with various members of the development community and home builders association to discuss the proposed fee adjustments and receive their input. He stated that staff returned to the Council in 2003 and 2004 with proposed fee increases in order to move toward full cost recovery; a policy of the City and Council. However, the Council and staff wanted to be careful about how much increase to approve as the City did not want to adversely affect the development community, or the local economy. He stated that staff is prepared to recommend the final components of the fee structure to bring it up to full cost recovery in the areas of planning and engineering fees. He requested the Council approve an increase in July 5, 2005 and July 1, 2006. Following these increases, if adopted, the City would be in a position to achieve full cost recovery; moving to the future knowing that given the current structure, the City would be providing the funding necessary to be able to provide the services that the community needs.

Mayor Kennedy indicated that he received an e-mail from Planning Commissioner Joe Mueller regarding the Urban Limit Line Study and using the General Plan Update fund. Mr. Mueller is suggesting that this fund be used for the southeast quadrant industrial land study. If there is to be a southeast quadrant area plan, Mr. Mueller requested that sufficient funds be placed into this fund to cover these costs.

City Manager Tewes noted that the issue before the Council is the fees themselves. He recommended that the request be considered as part of the budget process as staff is not recommending that appropriations be made into this fund or using the fees. Staff is merely recommending that the fee rate structure be approved by the Council.

Mr. Dilles said that there is a difference between the general plan update fund and some of the fees being recommended for revision this evening. He said that there is a 5% surcharge on building and planning fees that developers pay. As fees are adjustment, there would be a marginal increase in the general plan update fees as well.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Council Member Grzan requested that the e-mail from Mr. Mueller be made available to other Council members. He inquired as to the need to approve the increased fees for July 1, 2006 at this time.

Mr. Dilles responded that a two year fee increase is proposed at this time in order to have a definitive plan to get to the point of full cost recovery. He said that staff felt that it would be easier to bring both fee increases at this time as the Council has already approved three fee increases in the past three years.

City Manager Tewes noted that this would be the fourth increase. As an alternative, staff could recommend that the Council approve the entire amount in one action this evening in order to achieve full cost recovery, but is recommending full cost recovery over a two-year period.

Council Member Tate felt that it was important for the Council to make a commitment to reach full cost recovery, approving both step increases this evening.

Council Member Carr agreed that the Council needs to make a commitment to full cost recovery. He felt that the developers need to have some predictability and certainty of what their fees will be versus what will be the political whims of the Council this year and following years. Having this certainty will help developers in their planning process.

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Adopted** the Resolution No. 5902, Revising Fees and Services Charges.*

## ***City Council Action***

### **OTHER BUSINESS:**

#### **16.     INDEPENDENCE DAY INC. (IDI) AND MORGAN HILL MUSHROOM MARDI GRAS EVENTS**

Mayor Pro Tempore Tate stated that he would be recusing himself from this item as he is a board member for IDI.

Council Member Sellers stated that Council Member Carr took the lead on this issue and felt that it would be appropriate for him to make the subcommittee report.

Council Member Carr said that the Community and Economic Development Subcommittee volunteered to take on the request for funding by the Mushroom Mardi Gras. He indicated that at the last Council meeting, the Council gave the subcommittee a ceiling of \$16,000. The subcommittee has returned with what has been the practice of the City Council that the services that IDI provides to this community are unique and focused on community benefit. He said that there has been an expectation of \$11,000 coming out of the community promotions budget going to IDI. The subcommittee is recommending that the Council continue to fund IDI. In addition to funding, IDI typically requests significant in kind staff support for events that occur over the Fourth of July programmed days. The subcommittee is recommending that these in kind services continue this year with an expectation that this is the final year that the City absorbs the cost for in kind support. IDI, in subsequent years, needs to build this into their

request to the City. Regarding the Mushroom Mardi Gras, the subcommittee is recommending a one time contribution of \$5,000 in funding in recognition of moving their program to the downtown as a result of some of the work taking place at Community Park. It is the subcommittee's hope that the Mushroom Mardi Gras will be successful and have a long term partnership with the downtown for their program. He stated that the Council is engaged in discussions for contribution to the Mushroom Mardi Gras that may result in the City not having to contribute to this programming if the contribution comes through.

In response to Council Member Grzan's question, Council Member Carr indicated that he was not aware as to the cost for in kind services. The in kind services would be in terms of police and public works services. The subcommittee is recommending that the City provide support services, but recommends IDI build this into the cost that they are requesting.

City Manager Tewes said that in kind services range between \$10,000 and \$12,000 in cost to the City.

Council Member Carr stated that the City needs to start the discussion about next year's funding request now as the City cannot wait until April and the City is deep into its budget cycle. The City needs to build all the costs together so that one comprehensive request comes to the City that it can consider rather than in different pieces.

Council Member Sellers recommended that as part of the budget process, the City give additional specificity to the community promotions budget. Funding amounts to each group to be specifically identified so that non profit community groups can plan their events. If there are additional funds that the Council wants to set aside that are not earmarked for something specific, it should so be indicated. He suggested that this process be incorporated into the budget process this year.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:**        *On a motion by Council Member Carr and seconded by Council Member Grzan, the City Council, on a 4-0 vote with Mayor Pro Tempore Tate absent: 1) **Allocated** \$11,000 from the Community Promotions budget to IDI. In addition to this cash donation, the City is to provide in kind support; and 2) **Allocated** \$5,000 to Mushroom Mardi Gras as a one time contribution.*

Mayor Pro Tempore Tate resumed his seat on the Dias.

## **17.    MORGAN HILL LIBRARY – APPROVAL OF SCHEMATIC DESIGN**

Recreation and Community Services Manager Spier stated that a presentation was made to the Library Commission on Monday night. She indicated that a supplemental staff report has been provided to the Council that includes a recommendation from the Library Commission. She stated that the Library Commission agrees that the schematic design has merit and recommends to the Council that it is reasonable to proceed with the design as presented. However, they had a series of items that need to be addressed by the Council which have been included in the staff report. She introduced the design team

who have been working on the 28,000 square foot library project: Chris Noll and Meredith Marschak with Noll & Tam Architects; Gary Dam, construction manager with TBI; Sara Flower, Santa Clara County Librarian; Rosanne Maseck, Community Librarian; Jim Dumas, City senior project manager responsible for the design phase; and Glenn Ritter, City construction manager. She indicated that she is the principal project manager. In order to maintain the schedule, staff is requesting Council approval of the 28,000 square foot schematic design, direction regarding Leed sustainability, and amendment to the contract with Noll and Tam Architects.

Chris Noll addressed the schematic design for the new library, including the Leed evaluation process. He stated that the design team evaluated a range of architectural, site design and engineering aspects of the project. He noted that the design team did not have a large budget and that the design team made a series of decisions and improved the performance of the building. He highlighted some of the processes (e.g., balanced grading on site, site water retention accommodated on site, drought resistant plantings incorporated, additional building insulation, daylight incorporated, glazing is shaded, use of a four pipe water cooled HVAC system with long term energy savings, low water usage plumbing features, indoor air quality specifications, and fine tuning the building to make it operate as intended). He said that up to this point, this is not a Leed certification process. The design team was asked to avoid the cost of design and documentation as well as additional construction costs and the time it would take to perform a Leed process. The design team decided to have an alternative process whereby you can achieve all the value of a Leed process without having to go through the process itself. He addressed the budget for the project, indicating that he has been working closely with TBI in order to make decisions that will result in the project staying within budget. He indicated that the site and the building designs have been simplified. The building systems, materials, and finishes have been studied in order to achieve the best value. He said that the project is moving ahead and is being kept on a tight schedule.

Meredith Marschak addressed the site plan for the library as well as the master planning concept for the civic center site. She indicated that the design of the library retained some of the Proposition 14 design. It is a goal to maintain a single site and not solve the grading problem by building a retaining wall and having an upper and lower site. A gentle continuity would be maintained between the lower site and the upper site. She addressed the distance issues raised by the Library Commission. She addressed the proposed landscaping and lighting for the site with safety in mind.

Mr. Noll addressed the building elevations/details, including access and programming areas. He said that the design and elements took the budget into account; utilizing the civic center site.

Mayor Kennedy noted that it was originally planned to have a tile roof feature on the building, but that it was eliminated due to its cost. He inquired as to the cost to reinstate the tile roof material.

Mr. Noll said that he would have to return with cost estimates, but guesstimated that it would add hundreds of thousands of dollars in costs, depending on how much of the roof would utilize tile material.

Council Member Grzan inquired as to the possibility of using drought tolerant native California plants in the landscape design.

Ms. Marschak said that it is proposed to use all drought tolerant plants, including native California drought tolerant plants. She indicated that very little turf is to be used and that low growing groundcover would be used as it is water efficient. It is proposed to maintain the existing turf between City Hall and the existing library, extending the turf into the circle as a formal element. As you get closer to the west side of site, near DeWitt, a transition would be made to using low growing groundcover materials instead of turf as it is lower in water consumption and maintenance. She stated that she is very conscience about the use of California native plants and what would look good all year round.

Council Member Grzan noted that El Toro is nearby and felt that it would be appropriate to match the native fauna in place. This would result in a natural relationship between the proposed landscaping and El Toro's native fauna. Regarding the interior portion of the building, he stated that he understands the schematic design. However, he felt that the design is lacking in programming. He views this to be a passive facility and does not see the concept of a learning center incorporated. He felt that the facility lacked an activity room that includes sinks and other items where children can build and learn things; including demonstrations. He stated that he would hate to miss an opportunity for a library of tomorrow being active versus a passive facility. He sees the design as very traditional for a library.

Ms. Flower felt that Council Member Grzan's comments were well taken. She noted that the community originally identified the need for a 40,000 square foot facility that included the activities identified by Council Member Grzan. By reducing the size of the building to 28,000 square feet, it resulted in compromises being made. She said that it is being proposed to bring these types of activities into a large program room. By expanding the program room, it would allow these types of activities to take place. Desired is a training room for use of the internet and a library data base. She said that this program element was not included based on the amount of space available.

Council Member Grzan noted that the multi purpose room could be used as an active learning room and felt that additional rooms would have allowed for active learning to take place. He said that learning is an active process, and did not believe that the building reflects this.

Council Member Carr said that everyone needs to keep in mind that this community has built and continues to build community facilities. He felt that the Community & Cultural Center was built and designed for active activities as a learning center. He said that when the library facility expands, programming can be expanded.

Council Member Grzan felt that the link would be a wonderful resource that could take place on the library floor, a place where children can learn. He sees the concept of a learning center as being appropriate for the library. Not having appropriate funding results in making serious choices about the library and what it should/could be. He said that settling for less is troublesome for him. Not having the appropriate funding will result in building a library facility that is less than what is desired.

In response to Council Member Sellers question, Ms. Flower stated that the stacks in the children's side would be lower than that in the adult side. The design team looked closely at the design to make sure that sight lines were not lost.

Council Member Sellers inquired whether there were other elements, on the children's side, that would help the children feel that they are in a quieter place. He felt that the design appears to be linear.

Ms. Flower said that one of the concerns expressed by the community is the noise levels in the library. A way to address this concern is to have a group study room to draw some of the noisier patrons into this room to try and maintain a quiet area throughout the library. It was her belief that glass dividers would be used to separate the children's from the reference area.

Mr. Noll said that a way to keep noise levels down is to close some of the areas so that it is not as noisy.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Mayor Kennedy said that in looking at the exterior of the building, it does not impress him. He wondered if the budget was so much of a constraint that corners were cut on elements that would have otherwise provided a better exterior appearance.

City Manager Tewes said that it was a direction of the Council that the budget was important and that the design team met the Council's budget direction.

Mr. Noll said that the budget was an important factor. In looking at the prior design with the red tile roof, spaces, the circular elements, etc., the design team decided that it needed to be realistic about the budget as it was a high priority of the Council. The design team made decisions that it would not proceed with a traditional scheme. It was felt that you can get more for your money with a modern look. The design team did not feel that it would compromise the overall quality; acknowledging that it is a different look. He said that the design team is excited about the new design. He said that the design team would be looking at different ways to deal with these issues. He felt that the small scale design does not give a true feel of the design. He indicated that the design team did not want to design one huge building, but understood that the inside needs to have an uninterrupted open space for library staff reasons. He said that the design team remains excited about the design. It will not be the traditional building like the other two buildings on site. The design will have richness and a relationship with the building. He stated that he is looking forward to the next design presentation to the council where the design team will have had a chance to work on the details, design and refining the proportions.

Gary Dam, TBI, stated that the design team was fighting with the two distinct budgets presented: the site work and the building budgets. He said that the site work demanded more money. The design team needs to make sure that it is making good use of the money to encompass all the site work. Instead of exporting 30,000 cubic yards of soil to make the site work, thought was given to raising the site. He said that Mr. Noll and the design team were coming up with ideas for the building, recognizing that if you proceed with a tile roof system it would result in a number of factors (e.g., structure would change, design of building would change). He stated that he could not speak too much about the design portion, but is excited about the design.

Mayor Kennedy said that it is his hope that as the library gets more into the design phase, the facility would come alive. He said that it is difficult to achieve appreciation for the building based on pictures and a small model.

Mayor Pro Tempore Tate said that he understands that the book drop location has been controversial. It is his understanding that the book drop is desired to be located in an area that is optimal for operations. He felt that the design needs to include a feature that clearly demarcates the book drop location. He noted that the Library Commission expressed concern whether enough attention was being paid to room for collection. He did not understand what this concern entailed.

Ms. Flower said that in the existing facility, the collections area has overtaken the public spaces over the years. She said that there is very limited seating area and very limited access to public internet terminals. The design team tried to reverse this situation and focused the design on opening up the public spaces to provide additional public computers for internet terminals and additional seating. The group study room will try to address some of the current noise issues by having a larger program room. The design team focused on growing the public spaces and managing the collection areas.

Council Member Tate expressed concern that there are other communities such as Los Altos and Saratoga that have 2-3 times Morgan Hill's circulation. He felt that collections feed directly into what the circulation is.

Rosanne Macek, Morgan Hill librarian, felt that when you have public spaces, you have a lot of opportunities for display and stimulate circulation. This is another way to grow the collection without impacting shelving.

Council Member Sellers felt that Leed is an admirable goal. However the paperwork and formality of Leed is less important than trying to adhere to the principles that the design team attempted to instill. He said that he is more excited about the design than he thought he would be. He felt that the height variation and the use of light will be dramatic, significant and attractive elements. The entryway gives you a sense of place and where you are. He liked the sight line elements for the adults and the children. He indicated that he was ready to approve the schematic design. Regarding the Leed design, it should be the direction the design team follows, short of preparing the paperwork.

Council Member Grzan said that in looking at the schematic design, he finds missing a warm fireplace area with couches where one is welcomed and can read a book. He did not believe that the facility provides warmth. He acknowledged that the design is within the Council's scope and within budget. He is willing to move forward and approve this, reluctantly, but that it is his hope that in the future expansion, important and essential elements could be added back into the design. He said that the exterior has an awkward feel to it and does not blend with the existing buildings or ties in with the surrounding community.

Council Carr stated that he likes the unique and different design. He felt that the design would add to the entire civic center plaza. He was impressed by the amount of time and input that has been given to the programming and the design by the professional library staff. He appreciated their professional

comments. He also appreciated the work of the Morgan Hill Library Commission in reviewing the schematic design. Therefore, he would support taking action this evening.

Mayor Kennedy said that he was also impressed with the level of hard work and involvement by the Library Commission, the Librarian and the Library Authority staff. Function wise, it was his belief that the library would work. It was his hope that the design team will find elements that would make the building look attractive.

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Schematic Design.*

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Directed** staff to remain on the same Leed path.*

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Authorized** the City Manager to Prepare and Execute a Second Amendment to the Contract with Noll & Tam in the Amount of \$171,753, Subject to Review and Approval by the City Attorney.*

**18.    SETTING OF ANNUAL PUBLIC HEARING FOR FOX HOLLOW-MURPHY SPRINGS LIGHTING AND LANDSCAPE ASSESSMENT DISTRICT – Resolution Nos. 5903, 5904 and 5905**

Deputy Director of Public Works Struve presented the staff report, indicating that a revised resolution has been provided to the City Council that reflects the correct public hearing date.

Mayor Kennedy indicated that he resides within 300 feet from an assessment district. Therefore, he would be stepping down and outside the Council Chambers.

Mayor Pro Tempore Tate opened the floor to public comment. No comments were offered.

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Grzan, the City Council unanimously (5-0) **Approved** Resolution Nos. 5903, 5904 and 5905, Setting the Annual Public Hearing for the Fiscal Year 2005-2006 Fox Hollow-Murphy Springs Lighting and Landscaping Assessment District, amending the resolution to reflect the correct meeting date.*

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Grzan, the City Council unanimously (5-0) **Directed** the City Clerk to Notice a Copy of the Resolutions, as noted.*

Mayor Kennedy resumed his seat on the Dias.

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## **19. ECONOMIC DEVELOPMENT INHIBITORS**

Director of Business Assistance and Housing Services Toy presented the staff report, indicating that in March 2005, the City Council adopted a goal that stated that the Council would agendize economic development inhibitors as identified in the 2005 budget. The Council wanted to consider changes in policies and procedures. He indicated that this task was assigned to the Council's Community & Economic Development subcommittee to develop recommendations. He stated that the subcommittee is recommending approval and directing staff to implement the recommendations as presented this evening. He identified the inhibitors that were thought to hamper private development and were under the control of the City; including recommendations to address the inhibitors as listed in the staff report. He identified next steps which include revisions to existing ordinances. This will require staff to return to the Council for approval of the ordinance amendments. He said that the members of the Chamber of Commerce's Economic Development Partnership have indicated that they would like to comment on the City's recommendation. He said that there is time to discuss and incorporate the Chamber's comments into the recommendation. Further, staff will report back to the Council's Community and Economic Development subcommittee, consisting of Council Members Carr and Sellers, with a schedule for implementing the recommended changes.

Council Member Sellers stated that staff is to be commended for undertaking this assignment and pushing this item forward. He said that this would be an ongoing process. He felt that the Council needs to be actively involved with the Chamber's Economic Development Committee to make sure that the City does not miss any other inhibitors. He felt that the recommendations would be positive steps and would set the climate for economic development in the community.

Mayor Pro Tempore Tate acknowledged that this would be an ongoing process to address economic inhibitors and that there would be an opportunity for the public to bring forward additionally perceived inhibitors. He felt that ongoing dialogue makes sense and to move forward in order to address inhibitors through the subcommittee.

Council Member Sellers concurred that there would be ample opportunities to bring forward additional perceived inhibitors.

Council Member Grzan referred to inhibitor 7 that recommends modification to ordinances to give staff more discretion in specific areas such as the downtown. He requested clarification as to the intent of this statement.

Mr. Toy stated that the existing ordinance requires that the ARB review all aspects of development with exceptions such as doors and windows. While the ARB has created a subcommittee structure, there is still time and cost involved. It is being recommended that the ordinance be amended to allow staff to have more discretion for items in the downtown area. It is his assumption that staff will work closely with the ARB to come up with some parameters on how this can work.

Council Member Carr clarified that the staff discretion being recommended would be within the parameters of the existing Architectural Review Handbook and the Downtown Plan. He said that it is

within specific areas in town where the City has established guidelines, but yet, there are multiple review processes to go through when the City already has guidelines in place that should be adhered to.

Mayor Kennedy opened the floor to public comment.

Dan Ehrler stated that the Chamber of Commerce expresses its appreciation to the Community & Economic Development Subcommittee and City staff for the effort and time put into this subject. He felt that identifying problems/solutions is proactive and a positive way of approaching the future and doing something about it now. He stated that the Chamber of Commerce looks forward to participating in any way possible in the decision making process.

No further comments were offered.

Mayor Kennedy thanked the Community & Economic Subcommittee and staff for coming up with recommendations to eliminate or reduce some of the economic development inhibitors.

Council Member Sellers referred to the first inhibitor, impact fees. He noted that it is being suggested to allow for a longer period of time for repayment of City fees. He stated that he would like to look at the suggestion of bonding or other opportunities that would allow repayment even further. He felt that there are some projects where a longer repayment period would be highly desirable. He did not believe that the Council would want to extend the City's involvement, but felt that if there is a way to get fees paid and allow the applicant to finance the fees in a different way. It may make their businesses and/or properties more valuable. He indicated that he would pursue this suggestion with staff, the subcommittee and the City Council.

**Action:**        *On a motion by Council Member Carr and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** and **Directed** Staff to Implement Recommendations Made by the Community and Economic Development Committee Related to Economic Development Inhibitors.*

## **20.    PARKS AND RECREATION COMMISSIONER RESIGNATION**

Mayor Kennedy stated that he spoke with Parks & Recreation Commissioner Craig van Keulen earlier, noting that he was the next in line to be appointed to the Parks & Recreation Commission. Subject to Council concurrence, he stated that he would like to recommend the appointment of Mr. van Keulen to fill a Parks & Recreation commission vacancy.

Council Member Sellers said that he spoke with Parks & Recreation Commissioner Jensen who believes that it would be the most prudent way to fill the vacancy. He recommended that staff look at the term and looking at ways of making Mr. van Keulen's term a 2-year term as there is a scope of work that the Parks & Recreation Commission will be undertaking that needs tenure to this commission. He felt that Mr. van Keulen would be able to assist in the implantation of the scope of work.

Council Services & Records Manager Torrez informed the Council that staff has included a workplan item for Fiscal Year 2005-06 to return to the Council with an ordinance amendment for Council consideration that would change the appointment terms from two to four years for boards and commissions. She recommended that the Council await the outcome of the proposed ordinance amendment regarding the length of terms and Council direction as it may be feasible to extend terms on the commission beyond two years.

Mayor Kennedy concurred with waiting until staff returns with a proposed ordinance text amendment as it relates to term lengths on boards and commissions, as suggested.

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Accepted** the Resignation of Parks and Recreation Commissioner Don Jensen.*

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Approved** the Mayor's appointment of Craig van Keulen to the Parks and Recreation Commission, filing a term expiring June 1, 2006.*

## **21. CITY ATTORNEY SERVICES**

City Manager Tewes indicated that the Mayor requested that staff place the discussion about the Council's expectation on how to fill future city attorney services (e.g., full time city employee or some form of contract). He indicated that he presented the Council the staff work conducted five years ago when the Council was in a similar situation. He requested that the Council provide direction on additional information and/or analysis it seeks in order to support its decision.

Mayor Kennedy indicated that he requested that this item be agendaized to allow the Council to initiate the discussion of the process on city attorney services. He requested that council members bring forward their thoughts at this time.

Council Member Sellers felt that the newspapers have raised the issue and asked whether the Council has given thought to filling the City Attorney position. He noted that the Council conducted a very extensive process in the early part of his term of office. The Council made the determination to hire a city attorney staff member. He said that the scope of work for a City Attorney's office is a variable. He felt that this City/Council tends to be more active for a variety of reasons as it is a growing community and it has a lot of different issues on its plate. This results in having a lot of legal needs. He said that he would like to keep legal costs down by preventing lawsuits to be filed in the first place and by taking safety initiatives to prevent lawsuits. He stated that he is leaning toward continuing with an in house city attorney. He said that he would like to discuss what it might take to begin the process of recruiting for an in house attorney at a future council meeting.

Mayor Pro Tempore Tate agreed that the Council went through a process several years ago that led the Council toward having a full time in house city attorney for the reasons stated (e.g., City has several cases). However, he felt that this would be a good time to take a break and step back. He stated that he

was not ready to look for an attorney at this time. If there was some impetus that stated that the Council had to retain the services of a city attorney, he would agree to move forward. However, he noted that the City has legal representation with contract attorneys Dan Siegel and Bill McClure. He recommended that the Council move slowly regarding a determination of a full time in house attorney versus a contract for legal services. He further recommended that the Council look at the pros and cons of both sides. He said that logically, the Council made the right decision last time and that the Council wants to make the right decision again. However, he would like to review some of the factors that are included in the contract to make sure that the process is done correctly.

Mayor Kennedy said that he was on the Council when the City contracted for attorney services and that the City ran into a major problem. He said that the backlog of cases had gotten up to 33 cases. In one case, the City missed a deadline due to a statute of limitation situation, and that this cost the City approximately \$1 million due to the services of a contract attorney. The City had to sue for malpractice at that time. He felt that the City has had good successes with the city attorneys hired. He acknowledged that the City has experienced problems recently, but that overall, the City does better with an in house attorney that can manage the case load and variety of special circumstances (e.g., redistricting, power plants, perchlorate, etc.). He felt the City has faced every type of legal situation that could be imagined. Having an in house attorney is an important decision that the Council has to deal with. He wanted to make sure that the Council starts the process and that he would agree to move slowly to make sure that it is done right and that the City finds the best qualified attorney to fill the City's needs.

Council Member Carr stated that he was not on the Council when Council Members conducted the process of hiring an in house attorney. He does not feel an urgency to make a decision one way or the other at this time. He felt that the opportunity has presented the Council to take a look at whether it would be better to have a full time in house attorney or contract with a legal firm. He requested that staff provide a review as to the legal services that are needed in the City and what the City would be facing in the next year, five years, 10 years, etc. He would like to know when the Council needs to move things forward in order to make a decision. He felt that the Council still needs to talk about the budget, cost implications associated with an in house or contract attorney services, and the cost for recruitment. He felt that the memorandum produced 5 years ago needs to be updated to today's standards that describes where the City is headed and the needs of the City and staff. This would allow for the meticulous process that the Council needs to undertake.

Council Member Grzan felt that it was important to have an in house attorney; one that City staff can work with and confide in; an attorney who would be available at all times. He recommended that the Council take a careful look at what this means and that the Council defines what a city attorney is to be, identifying the scope of work, expectations, performance, a contract, etc. He recommended that the Council do a good job in selecting an in house attorney and bring this person on board. He felt that the City would receive service from an in house attorney and that there would be a greater tie. He also felt that it would be good to have an attorney who resides in the City and relates to the issues/problems the City faces; having a good understanding of the community. He agreed to move slowly, but that it was important to bring someone on board as quickly as possible.

**Action:**        *The Council provided the above comments/directions.*

**22. RECONSIDERATION OF FISCAL YEAR 2005-2006 OPERATING AND CAPITAL IMPROVEMENT BUDGET WORKSHOP DATE** (Continued from 4/20/05)

Mayor Kennedy stated that he would withdraw his request to change the May 20, 2005 budget workshop date. He indicated that other Council members have indicated that their schedules have been committed based on the advanced notification for this particular schedule. He stated that he would submit his comments on the budget in writing to the City Manager upon his return.

**Action:** Request **withdrawn**. No action taken.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 9:58 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK/AGENCY SECRETARY**



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *May 18, 2005*

**Agenda Item # 15**

**Prepared By:**

**Senior Planner**

**Approved By:**

**Kathy Molloy Previsich  
Director of Community  
Development**

**Submitted By:**

**J. Edward Tewes, City  
Manager**

### **ZONING AMENDMENT ZAA 04-01/ DEVELOPMENT**

### **AGREEMENT, DA 04-08: TILTON-GLENROCK.**

#### **RECOMMENDED ACTIONS:**

1. Open/Close Public Hearing
2. Waive the reading in full of the Zoning Amendment Ordinance
3. Introduce on first reading the Zoning Amendment Ordinance (roll call vote)
4. Waive the reading in full of the Development Agreement Ordinance
5. Introduce on first reading the Development Agreement Ordinance

**EXECUTIVE SUMMARY:** A request for approval of an amendment to the Precise Development Plan for the Capriano project located on the east side of Hale Ave., South of Tilton and west of Monterey Rd. The purpose of the current RPD amendment request is to define phases 7-10 (81 units) representing the balance of the project. Also requested is the approval of the project development agreement which covers the project's RDCS commitments. The current zoning amendment addresses 81 residential lots (18 acres), plus one nursery school site. The proposed development plan represents the build out of the R-1 12,000 Single Family low development area and also defines the R-2 3,500 area of the project which was designated as Multi-Family low in 2001, as part of the General Plan update. The 51 units proposed within the R-2 area of the precise development plan are proposed on lots ranging in size from 3,529-9,682 sq. ft. The unit sizes within the R-2 3,500 area range from 2,126 to 3,734 sq. ft. The proposed plan provides 8 below market rate BMR units and 8 moderate rate units. The size of the BMRs and moderate rate units are 1,450-2,275 sq. ft. The RPD amendment as proposed, will utilize the project's remaining 81 building allotments spanning FYs 2006-2009.

On December 14, 2004, January 11, February 8, March 8 and March 22, 2005 the Planning Commission met to give direction to the applicant regarding requirements of the RPD. On April 26, 2005, the Planning Commission recommended approval of the RPD amendment with conditions addressing the project phasing, improvement schedules and timing for the completion of the BMRs. All of the staff and applicant concerns have been addressed through the revised RPD plan and recommended conditions of approval.

The Commission voted 6-0 (Commissioner Lyle absent) recommending Council approval of the revised precise development plan defining phase 7-10 of the Capriano project as well as the development agreement for these phases which also addresses the Measure "P" commitments and processing schedule. The Commission's staff reports are attached for Council's reference.

**FISCAL IMPACT:** None. A \$2000 deposit was paid to the City to cover basic processing of the zoning amendment application. The applicant will be billed for costs incurred in excess of the \$2,000 deposit. An application filing fee was paid to cover the cost of preparing the development agreement.

#### **Attachments:**

1. Ordinance
2. Dev. Agreement Ordinance, Agreement
3. PC Staff Reports
4. Precise Development Plan

**ORDINANCE NO. , NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PRECISE DEVELOPMENT PLAN FOR PHASES 7, 8, 9 & 10 (81 UNITS) OF THE CAPRIANO/MADRONE CROSSING DEVELOPMENT. THE RESIDENTIAL DEVELOPMENT PLAN COVERS A 68 ACRE SITE LOCATED ON THE WEST SIDE OF MONTEREY ROAD, SOUTH SIDE OF TILTON AVENUE, ON THE EAST SIDE OF HALE AVE. (APN's 764-09-005, 006, 007, 008, 009, 010 & 014) (APPLICATION ZAA-04-01: HALE-GLENROCK BUILDERS)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

**SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

**SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Mitigated Negative Declaration has been filed.

**SECTION 4.** The City Council finds that the proposed precise development plan is consistent with the criteria specified in Section 18.12.060 and Chapter 18.18 of the Morgan Hill Municipal Code.

**SECTION 5.** The Planning Commission hereby recommends approval of a precise development plan for phases 7-10 as contained in that certain series of documents date stamped April 11, 2005, on file in the Community Development Department, entitled "Glenrock Vesting Tentative Map and Site Development plan" prepared by MH Engineering. These documents show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project. These documents shall be consistent with the provisions of Ordinance 1679 and shall also include the following modifications and conditions of approval:

1. The Architectural Review Board shall review and approve of a "new plan 4" which is of similar size 4050-4560 sq. ft. and quality prior to the approval of any final map approvals associated with the project.

2. Each phase of the project shall equal the number of allocations granted per fiscal year. The only exception shall be Phase 8 which shall contain 20 residential lots for the 20 FY 2006-07 allocations and include the creation of lot 33 as a non residential lot.
3. The project shall provide 3 BMRs with the 34 2005-06 allocations, 2 BMRs with the 20, 2006-07 allocations, 2 BMRs with the 15, 2007-08 allocations, and 1 BMR with the 12 2008-09 allocations.
4. The following project commitments shall be completed as follows:
  - Phase 8: All street improvements in R-2 zoning to be completed with phase 8 construction. Full frontage improvements (street, curb, gutter, sidewalk, storm, underground utilities) in front of the Berryessa, Silveria & Morgante property and the entire project frontage (including nursery site) on Tilton Ave. shall be completed with Phase 8.
  - Phase 9: Full frontage improvements (street, curb, gutter, sidewalk, storm, underground utilities) in front of the Burnett Elementary school for a distance of approximately 598 ft. in length shall be completed with Phase 9 or sooner at a minimum cost of \$3,000/unit.
  - Phase 10: Installation of a volleyball court within the 5 acre park shall be completed with Phase 10
5. The size of the of R-1 12,000 lots along Tilton Ave. shall be reduced to include no more than 6ft. of the City's right of way on Tilton.
6. All single family homes within the R-1 12,000 portion of the project shall adhere to the R-1 12,000 site development standards. This requirement does not apply to BMRs, Moderate units and condominium units within the project.
7. All primary building setbacks shall be measured from the edge of the right of way.
8. Phasing shall be consistent with the "Recommended" plan dated April 26, 2005. A phasing plan showing a logical and orderly sequence of development shall be submitted to and approved by staff prior to final map approval.
9. Any amendment required by Site and Architectural Review Board shall be incorporated into the project plans.
10. A revised precise development plan incorporating the above requirements shall be provided to the Planning Division prior to final map approval of Phases 7-10.

**SECTION 8.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 9.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18<sup>th</sup> Day of May 2005, and was finally adopted at a regular meeting of said Council on the Day of June 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Irma Torrez, City Clerk

\_\_\_\_\_  
Dennis Kennedy, Mayor

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of June 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 04-08: TILTON-GLENROCK FOR APPLICATION MP-02-03: TILTON-GLENROCK (APNS 764-9-06, 16, 17, 32 & 33)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 81 building allocations for fiscal years 2005-2006 thru 2008-2009 to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-02-03: TILTON-GLENROCK	81

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 5.** The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18<sup>th</sup> Day of May 2005, and was finally adopted at a regular meeting of said Council on the Day of June 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of June 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE:\_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

## EXHIBIT A

### RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 6103

Recorded at the request of  
and when recorded mail to:

City of Morgan Hill  
Community Development Department  
17555 Peak Avenue  
Morgan Hill, CA 95037

### RESIDENTIAL DEVELOPMENT AGREEMENT

This Agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between **Mr. Garcia of Glenrock Builders**, under the Agreement, Glenrock Builders and the CITY OF MORGAN HILL, a municipal corporation organized and existing under the laws of the State of California (the "City").

### RECITALS

This Agreement predicated upon the following facts:

A. Government Code Sections 65864-65869.5 authorize the City of Morgan Hill to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property;

B. Under Section 65865, the City of Morgan Hill has adopted rules and regulations establishing procedures and requirements for consideration of Development Agreements as contained in Title 18, Chapter 18.80 of the City of Morgan Hill Municipal Code;

C. The parties hereto desire to enter into a Development Agreement and proceedings have been taken in accordance with the City's rules and regulations;

D. The City of Morgan Hill has found that the Development Agreement is consistent with the General Plan and commitments made through the Residential Development Control System of the City of Morgan Hill (Title 18, Chapter 18.78 of the Municipal Code);

E. In light of the substantial commitments required to be made by Property Owner and in exchange for the consideration to be provided to the City by Property Owner as set forth herein, the City desires to give Property Owner assurance that Property Owner can proceed with the project subject to the existing official policies, rules and regulations for the term of this Development Agreement;

F. On \_\_\_\_\_, 2005, the City Council of the City of Morgan Hill adopted Ordinance No. \_\_\_\_\_, New Series approving the Development Agreement with the Property Owner, and the Ordinance thereafter took effect on \_\_\_\_\_, 2005.

NOW, THEREFORE, the parties agree:

1. Definitions. In this Agreement, unless the context otherwise requires:

- (a) "City" is the City of Morgan Hill.
- (b) "Project" is that portion of the development awarded building allotments as part of the Residential Development Control System by the City of Morgan Hill.
- (c) "Property Owner" means the party having a legal or equitable interest in the real property as described in paragraph 3 below and includes the Property Owner's successor in interest.
- (d) "Real Property" is the real property referred to in Paragraph 3 below.

2. Exhibits. The following documents are referred to in this Agreement, attached and made a part by this reference:

- Exhibit "A" - Development Allotment Evaluation
- Exhibit "B" - Development Review and Approval Schedule
- Exhibit "C" - Legal Description of Real Property

In the event there is any conflict between this Development Agreement and any of the Exhibits referred to above, this Development Agreement shall be controlling and superseding.

3. Description of Real Property. The real property which is subject to this Agreement is described in Exhibit "C".

4. Interest of Property Owner. Property Owner represents that he has a legal or equitable interest in the real property.

5. Assignment. The right of the Property Owner under this agreement may not be transferred or assigned unless the written consent of the City is first obtained which consent shall not be unreasonably withheld. The Property Owner shall provide the City with names, address, and phone numbers of the party to whom the property is to be transferred and Property Owner shall arrange an introductory meeting between the new owner, or his agent, and City Staff to facilitate consent of the City.

6. Recordation of Development Agreement. No later than ten (10) days after the City enters into this Agreement, the Clerk of the City shall record an executed copy of this Agreement in the Official Records of the County of Santa Clara. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, successors in interest to the parties to this Agreement; provided, however, that this Agreement shall not be binding upon any consumer, purchaser, transferee, devisee, assignee or any other successor of Property Owner acquiring a completed residential unit comprising all or part of the Project.

7. Relationship of Parties. Property Owner and the City agree that each is not the agent of the other for purposes of this Agreement or the performance hereunder, and Property Owner is an independent contractor of the City.

8. City's Approval Proceedings for Project. On May 27, 2003 and March 1, 2005, the City of Morgan Hill approved a development plan for the real property as part of its Residential Control System Review. This approval is described in proceedings designated File No. MP-02-03: Tilton-Glenrock, on file in the office of Community Development to which reference is made for further particulars. The development plan provides for the development of the property as follows:

Construction of 81 dwelling units in compliance with the Precise Development Plan as approved by the City of Morgan Hill Planning Commission and City Council.

9. Changes in Project.

(a) No substantial change, modification, revision or alteration may be made in the approved development plan without review and approval by those agencies of the City approving the plan in the first instance, which approval shall not be unreasonably withheld. No minor changes may be made in the approved development plan without review and approval by the Director of Community Development of the City, or similar representation if the Director is absent or the position is terminated, which approval shall not be unreasonably withheld.

(b) Any change specified herein and approved by this Development Agreement shall be deemed to be an allowable and approved modification to the Development Plan.

(c) In the event an application to change, modify, revise or alter, the development plan is presented to the Director of Community Development or applicable agencies of the City for review and approval, the schedule provided in Exhibit "B" shall be extended for a reasonable period of time as agreed to by the parties hereto to accommodate the review and approval process for such application.

(d) In the event the developer is unable to secure construction liability insurance because the project contains attached dwellings, the developer may convert the attached units into zero lot line or reduced setback detached units, subject to the review and approval of the Architectural Review Board. A zero lot line or reduced setback detached unit is defined as a dwelling physically separated from an adjacent dwelling on a separate lot of record but architecturally connected by a design element to give the appearance of attachment. In order to qualify for zero lot line or reduced setback detached units, evidence shall be provided to the City that the developer is unable to obtain construction liability insurance due specifically to the attached dwellings. This provision is contingent upon City Council approval of amendments to Title 18 of the Morgan Hill Municipal Code (the Zoning Code) to allow zero lot line or reduced setback detached units.

10. Time for Construction and Completion of Project.

(a) Securing Building Permits and Beginning Construction. Unless excused from performance as provided in paragraph 27 hereof, Property Owner agrees to secure building permits by (see Exhibit "B") and to begin construction of the Project in accordance with the time requirements set forth in the Uniform Building Code and the City's Residential Development Control System (see Exhibit "B") as these exist on the date of execution of this Agreement. In

the event Property Owner fails to comply with the above permit issuance and beginning construction dates, and satisfactory progress towards completion of the project in accordance with the Residential Development Control System, the City, after holding a properly noticed hearing, may rescind all or part of the allotments awarded to the Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

(b) Progress Reports Until Construction of Project is Complete. Property Owner shall make reports to the progress of construction in such detail and at such time as the Community Development Director of the City of Morgan Hill reasonably requests.

(c) City of Morgan Hill to Receive Construction Contract Documents. If the City reasonably requests copies of off-site and landscaping contracts or documents for purpose of determining the amount of any bond to secure performance under said contracts, Property Owner agrees to furnish such documents to the City and the City agrees to maintain the confidentiality of such documents and not disclose the nature or extent of such documents to any person or entity in conformance with the requirements of the California Public Records Act.

(d) Certificate of Completion. Within thirty (30) days after completion to the City's satisfaction of 25% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 50% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 75% of the total number of units, and after all public and private improvements have been completed to the City's satisfaction, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 100% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of the entire project. Upon issuance of the certificate of completion for 100% of the total units, this Development Agreement shall be deemed terminated as to the entire project.

11. Hold Harmless. Property Owner agrees to defend and hold the City and its officers, agents, employees and representatives harmless from liability for damage or claims for damage for personal injury including death or claims for property damage which may arise as a result of the construction of the project by the Property Owner or his contractor, subcontractor, agent, employee or other person acting within the course and scope of the authority of Property Owner.

Property Owner further agrees to hold the City and its officers, agents, employees, and representatives harmless from liability for damages or claims for damages suffered or alleged to have been suffered as a result of the preparation, supply, and/or approval of the plans and specifications for the project by the City or its officers, agents, employees or representatives.

Nothing herein shall require or obligate Property Owner to defend or hold the City and/or its officers, agents, employees and representatives harmless from or against any damages, claims, injuries, death or liability resulting from negligent or fraudulent acts of the City or its officers, agents, employees or representatives.

12. Insurance. Property Owner shall not commence actual construction under this Agreement until Property Owner has obtained insurance as described herein and received the approval of the City Attorney of Morgan Hill as to form and carrier, which approval shall not be unreasonably withheld. Property Owner agrees to maintain such insurance from a date

beginning with the actual commencement of construction of the Project and ending with the termination of the Agreement as defined in Paragraph 20.

(a) Compensation Insurance. Property Owner shall maintain Worker's Compensation Insurance for all persons employed by Property Owner at the site of the Project, not including the contractor and or subcontractors on the site. Property Owner shall require each contractor and subcontractor similarly to provide Worker's Compensation Insurance for themselves and their respective employees. Property Owner agrees to indemnify the City for damage resulting from its failure to obtain and maintain such insurance and/or to require each contractor or subcontractor to provide such insurance as stated herein.

(b) Public Liability and Property Damage Insurance. Property Owner agrees to carry and maintain public liability insurance against claims for bodily injury, death or property damage to afford protection in the combined single limit of not less than One Million Dollars (\$1,000,000).

(c) Additional Insured. Property Owner shall obtain an additional insured endorsement to the Property Owner's public liability and property damage insurance policy naming the City, its elective and appointive boards, commissions, agents, and employees, as additional insured.

13. Cancellation of Insurance. On or before the commencement of actual construction of the Project, Property Owner shall furnish the City satisfactory evidence that the insurance carrier selected by the Property Owner and approved by the City will give the City of Morgan Hill at least ten (10) days prior written notice of cancellation or reduction in coverage of a policy.

14. Specific Restrictions on Development of Real Property. Notwithstanding the provisions of land use regulations otherwise applicable to the real property by virtue of its land use designation of Multi-Family Low/Single Family Low and zoning classification of R-2 3,500/R-1 12,000 RPD, the following specific conditions of the Residential Development Control System building allotment approval govern the use of the property and control over provisions in conflict with them, whether lots are developed by the Property Owner or by subsequent property owners:

(a) Permitted uses of the property are limited to the following:

The Tentative map, Grading Plans and Precise Residential Development Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(b) Maximum density (intensity of use) is:

That shown on the Vesting Tentative map and Grading Plans and Precise Residential Development Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(c) Maximum height for each proposed building is:

That height shown on the Architectural plans as approved by the City of Morgan Hill under Site and Architectural Review Process.

(d) Landscaping and recreational amenities, as shown on Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(e) All public improvements shall be installed by the Property Owner along property frontages to the satisfaction of the Public Works Department consistent with the Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(f) All architectural features and materials for all structures shall be constructed as shown on the Architectural plans as approved by the Site and Architectural Review Process.

(g) Property Owner agrees to any other reasonable condition of approval resulting from subdivision, site review and environmental review, which conditions are on file with the City.

(h) Property Owner agrees to include the following **Safety and Security** features in the development:

- (i) Provide fire escape ladders for upper floor bedrooms.
- (ii) Provide one mounted fire extinguisher (2A010BC) for the first 1500 sf. of floor space and one mounted fire extinguisher (2A010 BC) for each additional 1500 s.f. of floor space.
- (iii) Provide outdoor lighting to meet all police department specs.
- (iv) Provide self luminous address numbers and painted curb numbers per specs.
- (v) Stucco and noncombustible siding materials will be used on at least 50% of the units within the project. The noncombustible siding will be used on at least 50% on an individual unit.
- (vi) Installation of an intrusion and fire alarm system for all homes, monitored by a central station and which meets City ordinance.
- (vii) Provide automatic earthquake shut off valves for gas services for each unit.

(i) Property Owner agrees to include the following **Open Space and Landscape** improvements in the development:

- (i) Public and Private useable open space areas will be maintained by HOA.
- (ii) Installation of all landscaping in all areas public and private which are visible from the public right of way.
- (iii) Plans for all landscape and park improvements shall be reviewed and approved by the City's Architectural Review Board.

(j) Property Owner agrees to pay the district-adopted developer fees as provided by the Leroy F. Greene School Facilities Act of 1998.

(k) The project committed to the purchase of a transferable development credit at a ratio of one TDC for every 25 units. The project also committed to the purchase the double the number of TDCs for the 51 units contained within the portion of the property zoned R-2. The overall project contains 212 units. Fifty-one of the units are within the R-2 zoning district. The project is required to purchase a total of **10.52** TDC's. The property Owner has to

date purchased five (5) transferable development credits (TDC's) for earlier single family phases of this project. Issuance of any building permits for any allocations granted for Fiscal Year 2005-06 or beyond, shall include a per unit payment for the **5.52** outstanding TDCs. The per unit TDC payment shall be collected at the time of building permit issuance. The .52 fraction may be adjusted to .44 depending on the residential build out of the Nursery Site. Building permits will not be granted unless this provision has been complied with to the satisfaction of the City Council.

(l) Property Owner agrees to include the following **Affordable Housing** features in the development:

- (i) The Property Owner shall provide at least (8.2) of the units for participation in a Below Market Rate (BMR) for sale program approved by the Community Development Department. The BMR unit(s) shall be approved by the City of Morgan Hill Planning Commission and Site and Architectural Review process. The BMR units shall be completed as follows:
- (ii) The two (2) BMR units on lots 8 and 9 of Tract 9525 shall be under construction and the framing inspection passed prior to the issuance of any of the building permits from the 35 building allocations from Fiscal Year 2005-06.
- (iii) Three (3) additional BMR units shall be under construction and the framing inspection passed prior to the issuance of any of the building permits from the 20 building allocations from Fiscal Year 2006-07.
- (iv) Two (2) additional BMR units shall be under construction and the framing inspection passed prior to the issuance of any building permits from the 15 building allocations from Fiscal Year 2007-08.
- (v) Two (2) additional BMR units shall be under construction and the framing inspection passed prior to the issuance of any building permits from the 12 building allocations for Fiscal Year 2008-09.
- (vi) Prior to the issuance of the final three building allocations for Fiscal Year 2008-09, the final BMR unit shall be under construction and framing inspection passed prior to the issuance of the (79th) building permit. The .2 fraction that may occur with the two unit build out of the Nursery lot will be paid in prior to the issuance of building permits for any unit constructed on the Nursery lot.
- (vii) The Property Owner agrees to pay the standard housing mitigation fee to the City of Morgan Hill prior to the issuance of a building permit from the Fiscal year 2007-8 building allocations
- (x) Property Owner will provide the buyer(s) of the BMR unit(s) the same option to upgrade the materials in the BMR home as a market rate buyers would in the market rate homes.

- (ix) Property Owner will provide the same level of customer service to the BMR buyer as the market rate buyer.
- (x) The Below Market Rate (BMR) Program Guidelines are hereby incorporated herein in full by this reference.
- (xi) Exterior trim entry door hardware, and finish to the same standard as the Market Rate.
- (xii) Minimum Interior standard finishes will be as follows:
  - Kwikset or equal standard hardware Price Pfister, or equal entry level faucets.
  - Interior doors will be the same as the market rate units.
  - Appliances: Whirlpool or GE entry level includes dishwasher and microwave and single oven and garbage disposals.
  - All closets will have sliding doors but no casings.
  - Laundry hook-up in house or garage.
  - Kitchen counters to be white ceramic tile.
  - Carpet to be nylon or equal.
  - Kitchen cabinets to be stained wood with plain front.
  - Units will be roughed in for AC, including electrical.
  - Basic alarm system or upgrade at buyer's expense.
- (ix) Property Owner will provide the buyer(s) of the BMR unit(s) the same option to upgrade the materials in the BMR home as a market rate buyers would in the market rate homes.
- (x) Below Market Rate (BMR) purchasers shall be treated in the same manner as purchasers of non-BMR units. Developer, including Developer's company, employees, and/or agents) agrees to assist BMR purchasers with all phases of the sales transaction, including, but not limited to, the preparation of any and all documents necessary to complete the sale and representation by a licensed real estate agent/broker.

(m) Property Owner agrees to include the following **Housing Types** in the development:

- (i) 8 Moderate Rate\* units: 4 bedroom, 2.5 bath and approx. 1815 sq. ft. or greater.

\*The final sales price (at close of escrow) for the four moderate rate units will be based on HUD income limits for a family of 4 at the closing date.

- (ii) 15 percent of the 31 R-1 12,000 units shall be single story.
- (iii) All BMRs and Moderate Rate units within this project shall comply with Ordinance No. 1641 and 1700 for modified setback dwellings.
- (iv) 10 percent of the 81 units shall be constructed with a secondary dwelling unit.

development: (n) Property Owner agrees to include the following **Construction** features in the

- (i) Will use 15 percent less than allowed under Title 24
- (ii) The use of EPA windows as specified as well as other “energy Star” approved energy saving devices.
- (iii) The applicant will install high efficiency gas furnace of 90% efficiency rating in all homes.
- (iv) Will provide two separately zoned 90% high efficiency heating systems in 100 percent of the homes.
- (vi) Recirculatory hot water systems with demand pumping.
- (vii) Consistent level of architectural relief on all four sides of the building.
- (iiix) Class A roofs and double paper or 30 lbs. roofing paper.
- (iix) Project will run phone lines directly to a main phone box rather than looping and use RJ6 wiring for television/video and CAT 5R or equivalent for telephone lines.
- (ix) 2x4 exterior walls with complete plywood wrap and 2x6 plumbing walls.
- (x) Will install cast iron drainage and insulation between floors.
- (xi) Exterior stucco treatment with elastomeric paint or 3 coat stucco.
- (xii) Subfloor and stairways to be glued and screwed.
- (xiii) Full headers above closets.
- (xiv) All shower floors to be hot mopped.
- (xv) Garage headers shall span the garage width.
- (xvi) Bitchathane at window headers and sides.
- (xvii) Project will provide porches, balconies and or private courtyards designed into a minimum of 25% of the units.
- (xviii) Project will include a minimum of two different roof lines and two different pitches.
- (xix) Sound board will be used on all units facing the railroad and AC units will be placed away from the property lines.

improvements: (o) The Property Owner agrees to provide the following **Circulation**

- (i) Will provide for the dedication and improvement of the existing streets outside the project boundaries:
- (ii) Prior to or as part of Phase 8, full frontage improvements (street, curb, gutter, sidewalk, storm, underground utilities) in front of the Berryessa, Silveria & Morgante property and the entire project frontage (including nursery site) on Tilton Ave. shall be completed. All street improvements in R-2 zoning shall be completed.

- (iv) Prior to or as part of Phase 9, full frontage improvements (street, curb, gutter, sidewalk, storm, underground utilities which are in the ROW on Tilton Ave returning on Dougherty Ave.) in front of the Burnett Elementary school for a distance of approximately 598 ft. in length shall be completed at a minimum cost of \$3,000/unit.

(p) Property Owner agrees to provide **Storm Drain** improvements in accordance with the requirements and specifications of the Public Works Department.

(q) The Property Owner agrees to provide the following **Park and Recreation** improvements:

- (i) Volleyball court

(r) The Property Owner shall record constructive notice on the Final Parcel Map for the development that each lot is subject to the requirements of this Development Agreement, and that commitments under the Agreement which the City has permitted the Property Owner to delay must be fulfilled by the next subsequent property owners.

(s) The project shall provide the following information, by address for each unit, to the Community Development Department:

- (i) Date of sale
- (ii) The number of bedrooms
- (iii) The final sales price

This information shall be reported on an annual basis for the calendar year and is due to the City by March 30 of the following year for every year until the project is completed and all units are sold. If the required information is not reported, any pending building permits or final inspections will not be issued until the information is provided.

(t) Each phase and final map(s) recorded for the project shall equal the number of allocations granted per fiscal year. The only exception shall be Phase 8 which shall contain lots for the 20 FY 2006-07 allocations and include the creation of one non-residential lot (lot 33 on the tentative map), for the purpose of creating a nursery or preschool site.

(u) Lot 33 on the precise development plan dated April 11, 2005, on file with the Community Development Department shall be utilized as a nursery or preschool facility. Elimination of this requirement shall not be considered by the Planning Commission and City Council until one year from the date of the issuance of the last building permit for the last residential unit within the entire RPD. The applicant must also show at that unsuccessful attempts have been made in obtaining a developer/operator for the childcare facility. Should the City Council eliminate this requirement, the applicant will be granted 2 building allocations from the City's on-going project set-a-side for the residential development of lot 33.

15. Effect of Agreement on Land Use Regulations.

(a) Unless otherwise provided herein or by the provisions of the Residential Development Control System, the rules, regulations and official policies governing permitted uses of the real property, governing density and governing the design, improvement and construction standards and specifications applicable to development of the real property are those rules, regulations and official policies, including without limitation building code requirements, in force at the time of the execution of this Agreement.

(b) This Agreement does not prevent the City, in subsequent actions applicable to the real property, from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies applicable to the real property as set forth in Paragraph 14 and in effect at the time of the execution of this Agreement. Any rules, regulations or policies enacted by the City subsequent to the execution of this Agreement which are in conflict with those rules, regulations and policies in effect at the time of the execution of this Agreement or in conflict with the terms of this Agreement shall not be applied to the Project.

(c) The City shall be entitled to impose development fees in effect at the time a vested tentative map or other equivalent map is approved, rather than those in effect as of the date of this Agreement. The City shall be entitled to apply building standards in effect at the time the building permits are actually issued, rather than those in effect as of the date of this Agreement.

(d) This Agreement does not prevent the City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations and policies.

(e) Nothing contained herein will give Property Owner a vested right to develop the described Project or to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

16. State or Federal Law. In the event that state or federal laws, or regulation, enacted after this Agreement have been entered into, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

17. Periodic Review.

(a) The City shall review this Agreement at least at four times per year and on a schedule to assure compliance with the Residential Development Control System, at which time the Property Owner is required to demonstrate good faith compliance with the terms of this Agreement.

(b) If, as a result of such periodic review, the City finds and determines, on the basis of substantial evidence, that Property Owner has not complied in good faith with the terms or conditions of this Agreement, the City may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

18. Amendment or cancellation of Agreement. This Agreement may be amended, or canceled in whole or in part, by mutual consent of the parties and in the manner provided for in California Government Code Section 65868, 65867 and 65867.5.

19. Enforcement. Unless amended or canceled pursuant to Paragraph 18 hereof, this Agreement shall be enforceable by any party to it notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the City, which alters or amends the rules, regulations or policies specified in Paragraph 14 and 15.

20. Termination of Agreement. This Agreement shall terminate upon the occurrence of one or more of the following events or conditions:

(a) The City finds and determines, in accordance with the terms of Paragraph 17, that Property Owner has not reasonably complied in good faith with the terms of this Agreement and the City elects to terminate this Agreement;

(b) Property Owner gives the City written notice of its decision to terminate this Agreement;

(c) Property Owner and the City mutually consent to termination of this Agreement in accordance with the terms of Paragraph 18; or

(d) Issuance of the Certificate of Completion referred to in Paragraph 10(d), provided that this Agreement shall only terminate with respect to that part of the Project to which the Certificate of Completion applies.

21. Default by Property Owner. Property Owner shall be in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) If a written warranty, representation or statement was made or furnished by Property Owner to the City with respect to this Agreement which was known or should have been known to be false in any material respect when it was initially made;

(b) A finding and determination by the City of Morgan Hill made following a periodic review under the procedure provided for in Government Code Section 65856.1 that upon the basis of substantial evidence, the Property Owner has not complied in good faith with one or more of the material terms or conditions of this Agreement.

22. Default by the City of Morgan Hill. The City is in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) The City, or its boards, commissions, agencies, agents or employees, unreasonably fails or refuses to take action on proposals, applications or submittal presented by the Property Owner within a reasonable time after receipt of such proposals, applications or submittal.

(b) The City unreasonably fails or refuses to perform any obligation owed by it under this Agreement.

(c) The City imposes upon Property Owner rules, regulations or official policies governing permitted uses, density, maximum height and size of proposed structures and reservations (dedications) of land for public purposes of the Property or the design, improvement and construction standards and specifications applicable to the development of the Property, which are not the same in all material respects as those rules, regulations and official policies in effect at the time of the execution of this Development Agreement and which adversely and materially affect the Project.

23. Cure of Default.

(a) This section shall govern cure of defaults except to the extent to which it may be in conflict with the Residential Development Control System. Upon the occurrence of an event of default by either party, the party not in default (the "non-defaulting party") shall give the party in default (the "defaulting party") written notice of the default. The defaulting party shall have thirty (30) calendar days from the date of notice (subject to subsection (b) below) to cure the default if such default is curable within thirty (30) days. If such default is so cured, then the parties need not take any further action except that the defaulting party may require the non-defaulting party to give written notice that the default has been adequately cured.

(b) Should the default not be cured within thirty (30) calendar days from the date of notice, or should the default be of a nature which cannot be reasonably cured within such thirty (30) day period and the defaulting party has failed to commence within said thirty (30) day period and thereafter diligently prosecute the cure, the non-defaulting party may then take any legal or equitable action to enforce its rights under this Development Agreement.

24. Remedies.

(a) In the event Property Owner defaults under the terms of this Agreement, the City, after holding a properly noticed hearing may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments or may terminate or modify this Development Agreement.

(b) In the event the City defaults under the terms of this Agreement, in no event shall the Property Owner be entitled to any of the following:

- (i) Punitive damages;
- (ii) Damages for lost profits;
- (iii) Damages for expenditures or costs incurred to the date of this Agreement.

(c) The parties hereby explicitly acknowledge and agree that remedies for any issue or dispute arising out of the performance or non-performance of this Agreement are limited to those provided under actions for mandamus, declaratory relief and/or specific performance. The parties further agree that in no event shall any party shall maintain any action, claim or prayer for damages pursuant to any alleged federal or state constitutional or statutory claim, or incurred as a result of an alleged breach of this Agreement.

25. Attorneys Fees and Costs. If legal action by either party is brought because of breach of this Agreement or to enforce a provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs.

26. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid addressed as follows:

City of Morgan Hill:                      Community Development Department  
City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, CA 95037

With a copy to:                              City Clerk  
City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, CA 95037

Property Owner:                            Mr. Roche Garcia  
Glenrock Builders  
1000 Old Quarry Road  
San Jose, CA 95120

A party may change the address shown above by giving notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

27. Force Majeure. Either party hereto, acting in good faith, shall be excused from performing any obligations or undertakings provided in this Agreement in the event and for so long as the performance of any such obligation is prevented, delayed, retarded or hindered by an act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, strikes, lockouts, eminent domain, inability to obtain labor or materials or reasonable substitutes therefor, non City governmental restrictions, regulations or controls, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, or any court action or judicial orders; unreasonable delays in processing applications or obtaining approvals, consent or permits, filing of legal actions, or any other cause, not within the reasonable control of such party. Active negligence of either party, its officers, employees or agents shall not excuse performance.

28. Rules of Construction and Miscellaneous Terms.

(a) The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory; "may" is permissive.

(b) If a part of this Agreement is held to be invalid, the remainder of the Agreement is not affected.

(c) This writing contains in full, the final and exclusive Agreement between the parties.

(d) The time limits set forth in this Agreement may be extended by mutual consent of the parties.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.

APPROVED AS TO FORM:  
JORGENSEN, SIEGEL, McCLURE  
& FLEGEL

CITY OF MORGAN HILL

\_\_\_\_\_  
, Interim City Attorney

\_\_\_\_\_  
J. EDWARD TEWES, City Manager

Attest:

\_\_\_\_\_  
IRMA TORREZ, City Clerk

PROPERTY OWNER(S)

\_\_\_\_\_  
ROCKE GARCIA, President  
GLENROCK BUILDERS, INC.

**(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY,  
MUST BE ACKNOWLEDGED BY A NOTARY)**

**EXHIBIT "A"**

**DEVELOPMENT ALLOTMENT EVALUATION**

MP-02-03: Tilton-Glenrock

(See Entire Documents on File in the  
Community Development Department - City Hall)  
CITY OF MORGAN HILL

**EXHIBIT "B"**  
**DEVELOPMENT SCHEDULE MP-02-03: Tilton-Glenrock**

**FY 2005-06 34 allocations/FY 2006-07 20 allocations/FY 2007-08 15 allocations/FY 2008-09 12 allocations**

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<b>I. SUBDIVISION AND ZONING APPLICATIONS</b>	
Applications Filed:	10-07-04
<b>II. SITE REVIEW APPLICATION</b>	
Application Filed:	06-30-05
<b>III. FINAL MAP SUBMITTAL</b>	
Map, Improvements Agreement and Bonds:	
FY 2005-06 (34 units)	07-30-05
FY 2006-07 (20 units)	07-30-06
FY 2007-08 (15 units)	07-30-07
FY 2008-09 (12 units)	07-30-08
<b>IV. BUILDING PERMIT SUBMITTAL</b>	
Submit plans to Building Division for plan check:	
FY 2005-06 (34 units)	08-15-05
FY 2006-07 (20 units)	08-15-06
FY 2007-08 (15 units)	08-15-07
FY 2008-09 (12 units)	08-15-08
<b>V. BUILDING PERMITS</b>	
Obtain Building Permits:	
FY 2005-06 (34 units)	09-30-05
FY 2006-07 (20 units)	09-30-06
FY 2007-08 (15 units)	09-30-07
FY 2008-09 (12 units)	09-30-08
Commence Construction:	
FY 2005-06 (34 units)	06-30-06
FY 2006-07 (20 units)	06-30-07
FY 2007-08 (15 units)	06-30-08
FY 2008-09 (12 units)	06-30-09

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 41 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

- 19 -  
**EXHIBIT "C"**

**LEGAL DESCRIPTION  
MP-02-03: Tilton-Glenrock**

The land referred to herein is situated in the State of California, County of Santa Clara, City of Morgan Hill and is described as follows:

The land referred to herein is situated in the State of California, County of Santa Clara, City of Morgan Hill and is described as follows:

**PARCEL ONE**

Parcel 8, as shown on that certain map entitled "Tract 9234 Capriano", which Map was filed in the office of the Recorder of the County of Santa Clara, State of California on October 30 2000 in Book 733 of Map. At pages 34 through 42 inclusive.

Excepting from Parcel 8, Lots 17 through 20 inclusive as shown on the Map of Tract 9280, which map was filed on May 9, 2001 in Book 739 of Maps, pages 44 and 45.

**PARCEL TWO**

An easement of street purposes and any and all public uses under, upon, and over the streets offered for dedication to the City of Morgan Hill by that certain Map entitled, "Tract No. 9234, Capriano," which Map recorded October 30, 2000 in Book 73 of Maps, pages 34 through 42 inclusive, Santa Clara County Records. Said easements shall automatically terminate upon acceptance of the these streets by the City of Morgan Hill, pursuant to the offers of dedication

APNS 764-9-06, 16, 17, 32 & 33



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: May 18, 2005***

Agenda Item # 16

Prepared By: \_\_\_\_\_

Asst. to the City Mgr. \_\_\_\_\_

Submitted By: \_\_\_\_\_

City Manager \_\_\_\_\_

### **SILICON VALLEY SOCCER COMPLEX PROPOSAL**

#### **RECOMMENDED ACTION:**

**1. Authorize staff** to negotiate a contract with the San Jose Soccer Complex Foundation, committing the City to pay up to \$974,000 in development and construction costs as certain milestones are met; and

**2. Authorize payment** of \$974,000 from the Capital Improvement Program subject to the terms established by contract with the San Jose Soccer Complex Foundation.

#### **EXECUTIVE SUMMARY:**

Attached is a proposal from the San Jose Soccer Complex Foundation requesting that the City of Morgan Hill contribute \$1 million toward the development and construction of the Silicon Valley Soccer Complex. Under this proposal, the City would be a "lead contributor" in a \$7 million fundraising effort.

With \$6 million, the Complex could be totally functional: the final \$1 million would enable construction of two proposed artificial turf fields. Groundbreaking for the Complex will not take place until the Foundation has sufficient funding (or funding commitments) to complete the Complex. The Foundation expects construction would begin by the end of the year. The Complex could be ready for play as early as July 2006.

Beyond requesting funding from the City of Morgan Hill, the Foundation has implemented an assessment on field use to raise capital funds, and has engaged a firm to assist with the capital campaign. Operating expenses for the Complex will be funded from field rentals, field fees, sponsorship programs, special programs and concessions.

The Public Safety and Community Services Committee reviewed the Foundation's proposal and recommends that the Council direct staff to enter into a contract with the Foundation that would enable the Foundation to use \$974,000 in CIP funds for the development and construction of the Silicon Valley Soccer Complex at Sobrato High School. A memorandum from the Committee is attached.

Staff concurs with this recommendation.

#### **FISCAL IMPACT:**

This project is in the City's Capital Improvement Program. Of the original \$1 million allocation, \$974,000 remains, following payment for design services.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: May 18, 2005***

Agenda Item # \_\_\_\_\_

Prepared By: \_\_\_\_\_

Asst. to the City Mgr. \_\_\_\_\_

Submitted By: \_\_\_\_\_

City Manager \_\_\_\_\_

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Staff concurs with this recommendation.

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This project is in the City's Capital Improvement Program. Of the original \$1 million allocation, \$974,000 remains, following payment for design services.



# Memorandum

**Date:** May 10, 2005

**To:** City Council

**From:** Public Safety and Community Services Committee

**Subject:** **San Jose Soccer Complex Foundation**

Having reviewed the San Jose Soccer Complex Foundation's funding plan, the Public Safety and Community Services Committee recommends that the Council commit \$974,000 to the design and construction of the Silicon Valley Soccer Complex. We make this recommendation for the following reasons:

- 1) The request seems to embody all we foresaw when we allocated the funding through the Capital Improvement Program, so we believe approving this request is in line with the Council's intent
- 2) We will pay as construction progresses, not give them funding up-front, but as they progress on a well thought-out schedule
- 3) The Foundation will not start construction before they have all funds in hand from their campaign
- 4) There are no other uses for the funds: this is a totally funded, complete package deal
- 5) Committing the funds to the Foundation at this time can aid the Foundation in raising the remaining required funds; the City's contribution is expected to be a "matching" contribution contingent upon the Foundation's fundraising success

# **Soccer Complex Funding Request**

**City of Morgan Hill**  
**March 2005**

**San Jose Soccer Complex Foundation**

## **San Jose Soccer Complex Foundation**

The San Jose Soccer Complex Foundation ("SJSCF" or "Foundation") was incorporated in California on October 6, 2003. The purpose of the Foundation is to raise the capital necessary to fund the design and construction of the soccer complex to be known as the Silicon Valley Soccer Complex ("SVSC" or "Complex"). SJSCF will be responsible for the management and maintenance of the Complex. The Foundation has received its non-profit organization status from the State of California and its 501 (c) (3) status from the Internal Revenue Service.

Today, soccer is the fastest growing sport in the United States. Soccer is the second largest participatory sport (ages 6 – 17) in the United States with 18+ million players. California is the top soccer state with well over 2 million youth players. Further, the metropolitan bay area is the 4<sup>th</sup> largest soccer market in the United States.

In connection with the explosive growth in the sport, demand for soccer field usage has increased dramatically, particularly in the last decade with the number of participants increasing to record highs in all levels of play. Also, increased restrictions relative to the time and days of use of present facilities have further magnified the demand for existing soccer fields. Further, the closures of numerous schools means their athletic fields are no longer available for use. In addition to the above, the field shortage issue in the South Bay and Peninsula areas is further exacerbated with the re-purposing of the Morgan Hill Soccer Complex (13 fields). This shortage of soccer fields in the South Bay and Peninsula areas has been chronicled in the San Jose Mercury News over the past few months.

There are 16 (sixteen) California Youth Soccer Association – North Leagues ("Leagues") serving over 25,000 youth in the counties of: Santa Clara, San Benito, Monterey, Santa Cruz, and San Mateo. Collectively the counties form District II. This does not include the thousands of players in the American Youth Soccer Organization ("AYSO") leagues, men's amateur leagues (adult), women's amateur leagues (adult), and co-ed leagues in these 5 (five) counties.

Over the past 10 years, the District II Leagues have been utilizing the Morgan Hill Soccer Complex. In anticipation of the re-purposing of the Morgan Hill Soccer Complex, the District II Leagues formed the Foundation with its purpose and mission as outlined previously. The SJSCF is a separate entity and not governed by California Youth Soccer Association – North ("CYSA-N"). To date, District II Leagues have provided approximately \$ 900,000 in seed funds to the SJSCF for a new soccer complex.

### **Proposed Complex Site**

With the assistance of the City of Morgan Hill and City of San Jose, a site was identified for a new soccer complex. The site is a 50 (fifty) acre parcel of "open space" owned by the City of San Jose on the Morgan Hill border adjacent to Ann Sobrato High School. A

design for the Complex has been drafted and includes 16 (sixteen) fields. Additionally, the site will have approximately 875 parking spaces, modular restrooms, modular administrative offices, modular concession facilities, and modular maintenance and storage facilities. SJSCF will operate and maintain the Complex under an operating-type lease agreement ("Agreement") with the City of San Jose at no cost to the Foundation. The provisions of the Agreement with the City of San Jose have not been finalized, however, it is anticipated the term of the lease will be 25 years with an option to renew in 5-year increments.

In addition to providing the 50-acre parcel, the City of San Jose has agreed to fund approximately 90% of the environmental study (EIR) that is estimated to cost \$ 300,000. The EIR was approved by City Council in early February 2005 and is in process. It is anticipated that the EIR will be completed within 7 (seven) months.

The City of Morgan Hill has earmarked \$ 1,000,000 for the Complex. These funds, if approved by Morgan Hill's City Council, would be utilized as follows in constructing and outfitting SVSC: Design - \$ 40,000; Construction (specifically seed and landscape and irrigation) - \$ 300,000; Equipment - \$ 250,000; Modular Buildings - \$ 300,000; and Soccer Equipment - \$ 110,000.

#### Cost Estimate to Construct and Outfit Complex

Following is a cost estimate to construct and outfit the Complex. The estimated costs to construct SVSC are based principally upon information provided by Beals Alliance Inc.

Description	Timing	Cost
EIR	Fiscal 2005	300,000
Design fees	Fiscal 2005 and 2006	349,000
Construction:		
Site Preparation	Fiscal 2005	233,000
Well Drilling including well and pump system	Fiscal 2005	350,000
Grading and Drainage	Fiscal 2005 and 2006	734,500
Hardscape	Fiscal 2006	620,000
Fencing	Fiscal 2005 and 2006	190,000
Seed and Landscape Site	Fiscal 2005 and 2006	791,000
Irrigation	Fiscal 2005 and 2006	650,000
Contingency	Fiscal 2005 and 2006	443,800
Construction Costs		4,012,300
Equipment including tractor, mowers, maintenance carts and generators	Fiscal 2006	450,000
Modular Buildings including equipment, supplies storage, workshop, and restrooms	Fiscal 2006	515,000
Fixtures	Fiscal 2006	20,000
Soccer Equipment including goals, nets, and player benches	Fiscal 2006	150,000

Complex Signage	Fiscal 2005 and 2006	20,000
Outfit Costs		<u>1,155,000</u>
Subtotal		5,816,300
Outside Labor and Consultants	Fiscal 2005 and 2006	117,000
Construct 2 Fields with Artificial Turf	Fiscal 2007 and 2008	<u>1,800,000</u>
Total Estimated Cost		<u><u>7,733,300</u></u>

Assuming the EIR is completed within 7 months as discussed previously and the necessary funds have been raised and/or funding commitments have been received, the earliest the Complex would be ready for play would be the June-July timeframe of 2006. However, groundbreaking for the SVSC will not occur until sufficient funding commitments are in place to ensure the completion of the project.

### **Funding Sources**

Over the past several years each player registered in one of the District II Leagues has been assessed a "field fund fee." On an annual basis these fees total approximately \$ 125,000. It is anticipated this assessment will continue at least 3 more years (through fiscal 2007) and possibly longer as required.

SJSCF has engaged the services of Essex & Drake Fund Raising Counsel to provide direction and assist with the Foundation's \$ 7 million major capital campaign. As part of the campaign strategy, District II parents and players will be mobilized and play a key role in the fundraising efforts. The capital campaign plan includes soliciting donations from private and corporate donors, soliciting individual and corporate sponsorships, and various fund raising events.

The Complex's ongoing operations are anticipated to be funded by revenues from field rentals, parking fees, District II Leagues' player field fund fees, sponsorship programs, concessions, special programs (e.g., soccer camps, training clinics with a soccer icon, etc.), and to a lesser degree private and corporate donations.

### **Benefits of the Complex**

It goes without saying that the all soccer players would potentially benefit as the additional fields at the Complex would help relieve the field shortage issue. The Complex will be available for use by and serve all youth soccer leagues in District II and not just those participating in the District II Leagues. Further, the facility will be available for use by all the various men's, women's, and co-ed leagues throughout District II.

Businesses, particularly in the Morgan Hill community, would significantly benefit from the Complex. The players, coaches, parents, and spectators would utilize the services provided by the local restaurants, hotels, shops, and gas stations. It is anticipated that the Complex, at a minimum, would be utilized at least 40 (forty) weekends and probably more annually. And several of the activities held at the Complex would potentially be 3-day events.

Further, a quality soccer complex of this size could host large regional and national tournaments that attract many thousand players, parents, and spectators. Tournaments of this stature would be of major economic benefit to the Morgan Hill-San Jose communities.

#### **Foundation Management**

SJSCF President, Dave Morton, and the SJSCF Board of Directors manage the Foundation. The Board of Directors consists of Mr. Morton, SJSCF Executive Vice President Bob Joyce, the CYSA-N District II Commissioner, and the District II League Presidents.

## Exhibit I

### Proforma Financial Information

#### Balance Sheets

	August 31,				
	2005	2006	2007	2008	2009
<b>Assets</b>					
Cash and cash investments	1,739,501	100,945	310,582	250,367	1,086,387
Current Assets	1,739,501	100,945	310,582	250,367	1,086,387
Land improvements, net	426,990	2,770,412	3,091,317	3,786,221	3,575,026
Equipment, net	-	1,044,300	813,900	583,500	353,100
Buildings, net	-	419,900	375,700	331,500	287,300
<b>Total Assets</b>	<u>2,166,491</u>	<u>4,335,557</u>	<u>4,591,499</u>	<u>4,951,588</u>	<u>5,301,813</u>
<b>Liabilities and Funds Balances</b>					
Accounts payable	77,544	475,089	73,075	99,717	102,677
Salaries payable	9,983	10,450	10,200	13,248	13,927
Current Liabilities	87,527	485,539	83,275	112,965	116,603
Funds Balances	2,078,964	3,850,018	4,508,224	4,838,623	5,185,210
<b>Total Liabilities and Funds Balances</b>	<u>2,166,491</u>	<u>4,335,557</u>	<u>4,591,499</u>	<u>4,951,588</u>	<u>5,301,813</u>

#### Statements of Operations

	August 31,				
	2005	2006	2007	2008	2009
Revenue	2,207,500	3,667,000	1,979,800	2,002,200	2,089,000
Cost of Revenue	300,000	47,200	317,600	475,000	631,000
	1,907,500	3,619,800	1,662,200	1,527,200	1,458,000
Operating Costs	315,848	806,545	904,994	1,029,301	1,086,914
Construction Costs	187,688	1,039,701	84,000	156,000	-
	503,536	1,846,246	988,994	1,185,301	1,086,914
Other Income/(Expense)	3,000	(2,500)	(15,000)	(11,500)	(24,500)
<b>Income/(Loss)</b>	<u>1,406,964</u>	<u>1,771,054</u>	<u>658,206</u>	<u>330,399</u>	<u>346,586</u>